

E.B.R.

CA 20N
ECO
-1995
E58
c.1
GOVT



3 1761 11892385 3

**THE *ENVIRONMENTAL BILL OF RIGHTS*:
A NEW ERA IN ENVIRONMENTAL DECISION MAKING**

**TUESDAY, JUNE 6, 1995
CONFERENCE PROCEEDINGS**

QUEEN'S PARK, TORONTO





Presented to the
LIBRARY of the
UNIVERSITY OF TORONTO
by
CIELAP



**THE *ENVIRONMENTAL BILL OF RIGHTS*:
A NEW ERA IN ENVIRONMENTAL DECISION MAKING**

**TUESDAY, JUNE 6, 1995
CONFERENCE PROCEEDINGS**

QUEEN'S PARK, TORONTO



Produced by: **Environmental Commissioner of Ontario**
1075 Bay Street, Suite 605
Toronto, ON
M5S 2B1

Phone: (416) 325-3377
1-800-701-6454
Fax: (416) 325-3370

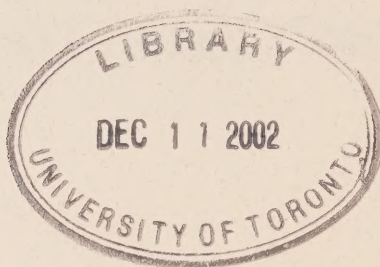





TABLE OF CONTENTS

Introduction	1
Agenda	3
Conference Participants	4
Greetings And Opening Address by Jay Kaufman	9
Looking Back, Looking Ahead by Eva Ligeti	13
Statements of Environmental Values — Panel Discussion	20
Workshops:	
A. Making Your Consultation Program Work	34
B. Training Strategies	39
C. Tracking, Monitoring And Reporting	46
D. What Is An Environmentally Significant Decision?	51
Appendices	57





Digitized by the Internet Archive
in 2024 with funding from
University of Toronto

<https://archive.org/details/31761118923853>



INTRODUCTION

On Tuesday, June 6, 1995 more than 100 representatives from 14 Ontario government ministries participated in **The *Environmental Bill of Rights: A New Era In Environmental Decision Making***. Hosted by the Environmental Commissioner of Ontario (ECO), this one-day conference encouraged delegates to share information about, and experiences with, the implementation of Ontario's first *Environmental Bill of Rights (EBR)*.

Delegates' participation showed their commitment to supporting this unique legislation and leading Ontarians into an era of greater public participation and enhanced government accountability for environmental decision making.

The day began with opening remarks from the Ontario government's Deputy Minister of Finance and the Environmental Commissioner of Ontario. A panel discussion followed, focusing on the Statements of Environmental Values (SEVs). Delegates took part in afternoon workshops covering public consultation, training, reporting systems and environmental significance.

The conference provided an opportunity to explore the best approaches to complying with the intent and spirit of the *EBR*, to build on current knowledge and to reaffirm support for this progressive legislation.

The Environmental Commissioner of Ontario would like to thank all those who attended and helped make the conference a success. The day built on the meaningful dialogue that began a year ago between the ECO and ministry staff. The ECO looks forward to continuing that dialogue to ensure the *EBR* is implemented successfully and that the quality of the natural environment is protected and improved for all Ontario residents.



The ECO is pleased to present this conference proceedings summary for your information and reference. To ensure cost-effectiveness, we have attempted to reproduce the highlights and key messages of each guest speaker, panel member and workshop rather than producing a verbatim transcript.

THE *ENVIRONMENTAL BILL OF RIGHTS*:
A NEW ERA IN ENVIRONMENTAL DECISION MAKING
TUESDAY, JUNE 6, 1995
AGENDA

- 9:00 a.m. Registration
- 9:30 a.m. Greetings And Opening Address
Jay Kaufman, Deputy Minister, Ministry of Finance
- 9:50 a.m. Looking Back, Looking Ahead
Eva Ligeti, Environmental Commissioner of Ontario
- 10:20 a.m. Break
- 10:45 a.m. SEV Panel Discussion
Ken Ogilvie (Facilitator), Richard Lindgren, John Macnamara,
Helle Tosine, Michael Cochrane.
- 11:50 a.m. Questions & Answers
- 12:15 p.m. Lunch
- 1:15 p.m. Workshops: A. Making Your Consultation Program Work
 B. Training Strategies
 C. Tracking, Monitoring And Reporting
 D. What Is An Environmentally Significant Decision?
- 3:00 p.m. Adjourn

CONFERENCE PARTICIPANTS

MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

Mike Philip

Lee Howell

Raphael Sumabat

Cora Dela Cruz

Ken Taylor

Michelle Kalsbeek

Elie Stephan

Heather MacKay

Tom Scott

MINISTRY OF NORTHERN DEVELOPMENT AND MINES

Cal McDonald

Roma Levesque

Gary Holman

David Walters

John Robertson

Ginette Vezina-Repel

David Sword

MINISTRY OF HEALTH

John Regan

Lee Bridge Ford

Bill Kennedy

Sheila Irving

Anna Burwash

Doris Pretz

Betty Lou Lynn

Gary Howden

Catherine Frank

Dale Roth

Heinz Belzer

Helen Paul

MINISTRY OF ECONOMIC DEVELOPMENT AND TRADE

Lynn Goudie

Frank McLean

Joyce Sinclair

MINISTRY OF LABOUR

Sandra Glasbeek

Nikki Cummins

Marni Tivy

John Phelen

Grainne Ward

Roma Jalali

David Leong

Robbie Shepard

Paulette Blais

Sandy Waddell

Lionel Morton

MINISTRY OF MUNICIPAL AFFAIRS

Peter Jankowski

Scott Gray

Christine Kowalyk

Dale Taylor

Howard Barton

Whitney Birch

Rizaldo Padilla

Peter John Sidebottom

Taras Myhal

Cristopher de Souza

Usman Ahmed

MINISTRY OF TRANSPORTATION

Heather St. James-Perry	Menna Weese
Heather Edwardson	Tom Hewitt
Steve Radbone	Stephen McNamee
Allan Moore	Martine Bouret

MINISTRY OF ENVIRONMENT AND ENERGY

Ed Gill	Sylvie Trepanier
Peter Steer	Diane Wilcox
Brian Hack	Marjan Medved
Mary Ouroumis	Jill Pritchard-Scott
Jim Jackson	Ana Javor
Cynthia Brandon	Bohdan Wynnycky
Bob Shaw	David Griffin

MINISTRY OF HOUSING

Pierre L'Abbe	Jennifer Bays
---------------	---------------

MINISTRY OF AGRICULTURE, FOOD AND RURAL AFFAIRS

Bob Kalbfleisch	Doug Green
Karen Atchison	Violet Vingilis

MINISTRY OF CULTURE, TOURISM AND RECREATION

George Potter	Winston Wong
Claude Andre	John Shipman
Karen Virta	Steven Davidson
Benoit Legault	

MINISTRY OF NATURAL RESOURCES

Rick Laprairie	Larry Douglas
Dale Scott	Randy Pickering
Scott Poser	Derryk Renton
Marla Keyes	

MINISTRY OF FINANCE

Carol Harris-Lonero	Chris Goethal
Russ Houldin	Elizabeth Kay-Zorowski
Helen Harper	Rob Fleming
Denise Dagenais	Joe Aranha

MANAGEMENT BOARD OF CABINET

Leslie de Souza

Frank Dietz

Jackie Szymanski

Ann Marie Strapp

Mary Dowding-Pare

Sue Worley

Veronica Cooper

Brenda Brautigam

Leroy Kugle

Paul Fung

Martin Krogh

Bill Wilson

GREETINGS AND OPENING ADDRESS

BY JAY KAUFMAN, DEPUTY MINISTER,
 MINISTRY OF FINANCE

Jay Kaufman, Deputy Minister of Finance delivered greetings and the opening address to conference delegates. The following summarizes Mr. Kaufman's address.

The *Environmental Bill of Rights (EBR)* represents an important new direction in public policy. This morning's meeting, which brings together 14 diverse agencies to share ideas on how to implement this policy, is a particularly constructive step: it represents the kind of cross-ministry learning and cooperation that will be necessary to make the *EBR* an effective instrument of public policy in Ontario.

The *EBR* introduces an institutional change to promote sustainability by requiring the 14 ministries, not just the environmental ministries, to develop Statements of Environmental Values (SEVs). In this way, the government is making itself accountable for integrating environmental, economic and other concerns in its decision making.

You may recall that, initially, the provision for a Statement of Environmental Values — a commitment by the ministries to integrate environmental considerations into their mandated activities — did not apply to our ministry or to other ministries that did not have a specific mandate for environmental protection and approvals. However, what would have been the old, sectoral approach, was altered before the bill was made final, and a genuine opportunity for institutional change, based on sustainability, was created.

I might add, the fact that I am here opening this morning's meeting, rather than the Deputy Minister of Environment and Energy, illustrates how far our thinking on environmental matters has evolved. We recognize today that environmental issues are cross-cutting; they cannot be boxed up and placed in one or two ministries. How can economic growth and wealth creation be severed from concerns with the social and the natural world? The answer is, they cannot. The real challenge for public policy is one of balancing economic and environmental considerations and taking into consideration the longer term impact of decisions.

As a first step, on March 1, 1995, the Ministers of Finance and Environment and Energy held a pre-budget forum on sustainable development. Our Statement of Environmental Values includes a commitment to make this forum a regular feature of the annual budget cycle.

In addition, our ministry has made a commitment to take environmental impact into account in advising Treasury Board about how well "... ministry proposals achieve program and policy objectives balanced against the fiscal plan, the environment and other priorities set by the Cabinet."

It is clear to many, both inside and outside of government, that the very structure of government is a barrier to integrating environmental and other policies. When it comes to protecting the environment, we have tended to place exclusive emphasis on either the Ministry of Environment and Energy or on Natural Resources, despite the fact that the actions of other ministries also affect the environment. Within government, we have been operating for decades with sectoral mandates.

This approach inevitably sets up an adversarial relationship between the environment and development and between the environment and other

ministries. Unfortunately, all too often, vertical, silo thinking dominates horizontal, cross-sectoral thinking. I hope the *EBR* begins a process to turn this situation around.

I have heard Eva Ligeti, Environmental Commissioner of Ontario, say that our Statements of Environmental Values must become “living documents”; that is, evolve as we better understand how to integrate environmental concerns into our ministries’ responsibilities and as we see more clearly opportunities for change.

As far as I know, there is no model or manual to guide us on implementing the *EBR* and our Statements of Environmental Values. Realistically, there will continue to be formidable barriers to change — changing mandates, diminishing resources and organizational restructuring. Clearly, a cooperative approach, willingness to share our experiences and solutions, and flexibility to learn from others will be key to putting institutional change into practice, because there is no one-size-fits-all answer. The Commissioner has provided an excellent opportunity today to ask questions and get advice from those who have spent a lot of time on implementation issues.

A second key to implementation will be communication and training in your ministries. When we ask people to adopt a new perspective and to change the way they carry out their duties, training is the necessary bridge to practice. I know one of the afternoon workshops is specifically devoted to training strategies. In fact, it seems to me that all of the workshops will be helpful in developing the content of information and training programs on the *EBR*.

And I don’t want to overlook the efforts of Eva and her staff in setting up the office of the Commissioner this past year. A formidable task considering the Commissioner’s duties under the bill. As well, I want to compliment her for her vision of public outreach. As the Deputy of a central agency, I can personally

attest to the challenge of getting to know and work with 14 ministries whose interests both complement and compete with one another.

I want to congratulate all of you on your hard work and accomplishments of the past year. I know there are many challenges ahead, so I expect today will prove both interesting and productive.

end

LOOKING BACK, LOOKING AHEAD

BY EVA LIGETI,

ENVIRONMENTAL COMMISSIONER OF ONTARIO

Eva Ligeti, Environmental Commissioner of Ontario, delivered a 30-minute speech during the morning session, focusing on EBR implementation experiences over the past year and future directions. The following summarizes the key messages of “Looking Back, Looking Ahead”.

I have been involved in environmental law and regulation in Ontario for about 25 years, first as a student, then as a lawyer, as a teacher, and now as Environmental Commissioner for this province. Looking back over 25 years of environmental decision making in Ontario, I have seen the potential for government decisions to contribute to environmental harm.

At the same time, the *EBR* recognizes the potential for government to prevent harm to the environment. I believe Ontario has made significant advances in environmental decision making over the past quarter century.

I have also seen environmental public policy take a major shift in emphasis since the 1970s. For example, the emphasis on waste management, end of the pipe control, pollution dilution and point source control has shifted to an emphasis on waste minimization, pollution prevention, zero discharge and ecosystem management. We’ve moved from energy supply development to energy demand management. From public information and bilateral government/industry negotiations to public participation and multiparty decision making processes. From national standards to global protocols. From the separation to the integration of environment and economy. And from environmental protection to environmental sustainability.

These shifts in public policy reflect a maturing of Ontario's environmental values in the last 25 years. The Statements of Environmental Values (SEVs) reflect this maturing and require ministries to take an environmentally sensitive approach to policy and program development.

As Environmental Commissioner I focused great attention on the SEVs in their first year because of my Oath of Office and Legislative responsibility and because of my ongoing relationship with the 14 ministries.

My legislative responsibility is essentially threefold:

1. I provide education to the public about the *EBR*;
2. I assist ministries to comply with their responsibilities under the *EBR* when I am asked to do so;
3. I review and report on all aspects of the *EBR*.

An important component of this mandate is monitoring the SEVs. The ongoing requirement is to report on the status of the SEVs to the legislature.

The *EBR* Task Force reported it wanted the best method of ensuring the purposes of the legislation were carried out. It acknowledged that many ministries had developed mission statements and strategic plans. The Task Force recommended ministries develop a similar statement with respect to their environmental values.

This approach would not guarantee the application of the purposes of the *EBR*, but it would guarantee their consideration and substantially increase the likelihood of their application.

The Task Force also indicated that the SEVs would be used by the public to assess government's environmental decision making. That is how the public will judge the government's record for protecting the environment.

The Federal Government has mirrored the Task Force's recommendations. Recently tabled amendments to the *Auditor General's Act* will create a Commissioner of Environment and Sustainable Development who will report to Parliament. Each federal ministry will have two years to prepare and publish its sustainable development strategic plans. These plans, and their implementation, will be reviewed annually.

To fulfil my legislative mandate, I need to foster strong supporting relationships and good communication between my office and the ministries. This is critical to my first annual report. I expect that report to be both a positive statement describing the progress the ministries have made in preserving and protecting Ontario's natural environment, along with areas where work still needs to be done to properly implement the *EBR*.

Looking back at the work of my office over the past year I have focused my efforts on building the ground work and laying a solid foundation for the next four years. I have established an office with staff whose expertise covers the environment, education, public policy, law and communications. We have:

1. Established a public education program.
2. Established a public Resource Centre staffed by a librarian and information officers.
3. Developed and distributed a quarterly newsletter and other public information materials.
4. Conducted research and produced guidance documents and discussion papers on topics central to *EBR* implementation.
5. Travelled throughout Ontario providing *EBR* education.
6. Met regularly with government decision makers and stakeholders.
7. Met with MPPs who conveyed their environmental issues and their constituents' concerns.
8. Met with municipal politicians.

MPPs have told me they know the public is concerned about Ontario's natural environment. However, the public is sceptical and wants to examine what is, and is not being done. The public wants to have direct input into environmental decision making which affects their health and their communities.

In general terms, we often hear that the public doesn't want more government. They want less of it. This may well be true in some areas of government regulation. However, when it comes to the natural environment, public surveys consistently show that the public supports government regulation and government involvement in administering those regulations.

Philip K. Howard is a prominent New York lawyer whose best selling book, *The Death of Common Sense: How Law Is Suffocating America*, looks at the current state of government regulation in the United States. Howard believes that those who attack government and preach that all would be well, or at least better, without big government, are naive. He also notes he doesn't know anyone who wants to eliminate environmental protection.

Howard analyses and criticizes the reasons for anti-government public sentiment. He points out that the public's concern is really about how government works.

Ontario and Canada are not immune to increasing public alienation from government. Ottawa's Public Policy Forum paper, *Making Government Work*, provides some solutions. And Arthur Kroeger, Forum Chair, has indicated the Forum believes immediate action is necessary.

The paper asks government to find new ways to function, just as large private sector organizations already have. Some of the key recommendations are:

- Better Public Participation
- Cultural Change In The Public Service

The *EBR* seeks to transform the old emphasis from a process that is driven from the top down to one that is transparent and consultative. In passing the *EBR* the Legislature recognized a fact of environmental life. No one constituency has a monopoly on environmental problems, or on their solution. The *EBR* provides the opportunity to identify all the factors and players and bring their ideas together in proactive, constructive relationships to effectively deal with complex environmental issues.

My office is an important contact between the public and your ministry on environmental issues. My office receives public inquiries and they're increasing rapidly. My discussions with people in every part of Ontario have shown me that environmental values have deep roots in this province and Ontarians continue to think of environmental quality in terms of where they live, work and play.

In 1972, Anthony Downs wrote an article in Public Interest Magazine called *Up and Down with Ecology: The Issue Attention Cycle*. Over the past 25-30 years we have seen that the level of interest in environmental issues has gone through cycles of increase and decline. And yet, certain values have steadily gained ground, such as the inherent value of ecosystems, the need for pollution prevention, the abhorrence of toxic substances in air, water and soil, the quest for sustainable resource management practices and the need to reduce waste.

The Environmental Registry is a key tool created by the *EBR* to assist the public to participate in environmental decisions. Currently more than 15,000 people have accessed the Environmental Registry. The public is finding many innovative uses for the information on the Registry. Lawyers, engineers and consultants are using it to keep an eye on government decisions. Community groups, ratepayers, municipalities, environmental and other groups are using the information to mobilize community response to environmental activities.

The *EBR* requires every ministry employee who makes environmentally significant decisions to be fully apprised of their new responsibilities. It requires you to consider in your daily work the extent and purpose of public participation and the impact of wide availability of environmental information through the Registry. The training strategies devised and implemented in your ministry ought to instill the goals and the environmental values of the *EBR* in all ministry staff. When the public contacts anyone from your ministry or when ministry staff are making a decision in relation to an environmentally significant matter, your ministry's environmental values must always be a factor.

To close, I would emphasize that the Environmental Commissioner of Ontario has a legislative authority and mandate. As I mentioned earlier, I have taken a sworn Oath of Office to report on and assist in the implementation and ongoing success of the *EBR*.

I am committed to that mandate and will do everything in my power to achieve it. In this respect, like you, I am a public servant with a public responsibility. Like you I must fulfil my responsibility in a manner that is in the public interest. I believe that the public interest will be better served if we work together.

Looking back over the past year I have had the opportunity to work closely with all 14 ministries. Like my staff and I, ultimately you want to

provide the highest level of service to the residents of Ontario. Your expertise and support is critical to improving Ontario's natural environment.

Looking ahead, there will be new challenges, but there are also many opportunities. My mission over the next four years is to fulfil my legislative mandate to maximize the potential for you and your ministries to achieve the purposes of the *EBR*. Let's work to build on the strong foundations we've already laid to secure a successful future for the *EBR* and for Ontario's natural environment. I invite you to join me in that mission.

end

STATEMENTS OF ENVIRONMENTAL VALUES

PANEL DISCUSSION

PANEL MEMBERS:

Ken Ogilvie, Facilitator

Helle Tosine

Michael Cochrane

Richard Lindgren

John Macnamara

TOPIC: The rationale behind the need for SEVs, their purpose and function, along with an understanding of community expectations.

The following is a summary of the key points raised during the panel discussion and the ensuing question period.

KEN OGILVIE

The panellists all have a great deal of experience from the early days of discussing the *Environmental Bill of Rights* (EBR) and the Statements of Environmental Values (SEVs) and in the practice of putting the SEVs together.

Michael Cochrane, a lawyer/mediator, is former Co-Chair of the *EBR* Task Force. He is currently working on a project for the Ministry of Consumer and Commercial Relations re-engineering a relationship between the ministry's regulated sectors, the Legal Services Branch and the Commercial Registration Appeal Tribunal.

Helle Tosine is currently Director of two programs: Program Development Branch and the *Environmental Bill of Rights* Office located in the Ministry of Environment and Energy (MOEE). She is responsible for implementing the *Environmental Bill of Rights* for the government of Ontario and also for establishing policies, programs and priorities for the MOEE.

Richard Lindgren represents the Canadian Environmental Law Association (CELA) and he has been a staff lawyer with that association since his call to the Bar. At CELA he has represented citizen groups in the courts and before statutory tribunals on numerous environmental issues.

Representing the Ontario Chamber of Commerce is John Macnamara. John was a member of the earlier advisory group on the *Environmental Bill of Rights* and is a member of the Occupational Disease Panel.

MICHAEL COCHRANE

The birth of the *Environmental Bill of Rights* represented a unique opportunity where business, environmentalists and government sat down together and reached a consensus.

The *EBR* has three main themes. The first theme is joint responsibility for environmental protection. It's not just government's job, it's not just the public's job. It's the job of government and the public to work together to protect the environment.

The second theme is public participation. The public wants to participate in environmental decisions. They want to break down the door and help public servants make the decisions. The *EBR* creates opportunities for that to happen in an organized way.

The third theme is the re-introduction, retro-thinking of political accountability. We need to go back and find some form of political accountability and that's what the bill introduces throughout the public service and the political process in Ontario.

There are seven tools for achieving these themes. They are the Statement of Environmental Values, the Environmental Registry, the Request for Review, the Request for Investigation, the Cause of Action/Public Nuisance aspect, the Whistle Blower protection and the Environmental Commissioner.

How can the Statement of Environmental Values be used as a tool to adhere to these themes? What is the SEV supposed to do in the context of environmental decision making?

The SEV was intended to be a “Mission Statement” that captures the values that the Task Force was trying to put into the *Environmental Bill of Rights*.

The *Environmental Bill of Rights* says whenever you make decisions you have to be very conscious now about how those decisions affect the environment. As you make them, think about your ministry’s Statement of Environmental Values to fuse the proposed decision with some kind of ethic. The SEV is supposed to bring forward a better proposed decision so that the public will be commenting on the best possible product that government could produce on its own before the consultation begins.

I want to close my remarks by saying this — government resources are shrinking. People are really frightened about their jobs, about the changes they are being asked to implement. The *Environmental Bill of Rights* should not be seen as something that pulls resources away from things you’d rather be doing or things that are more important than sound decisions. I can’t think of anything that is more important, given the phase we’re about to go into where they say 12,000 to 15,000 public servants will be laid off. Those people are doing something and many of them are doing things that protect the environment. If ever there was a time when we should be drawing a line, creating some benchmarks about environmental protection in Ontario, it’s right now. The *Environmental Bill of Rights* creates the opportunity in government for decision making to be consistent over time, to be infused with those environmental values that the public holds. I think the *Environmental Bill of Rights*, beginning with the Statements of Environmental Values, is the opportunity to do that.

HELLE TOSINE

At the MOEE, we have interpreted the Task Force’s report as saying the SEVs are documents that the ministries use as guiding principles that must be

integrated into decision making, including environment, social, economic and scientific considerations.

In our opinion, the SEV was not meant to be a strategic document. It was not meant to be a document that has data in it that provides specific benchmarks, dates and action items. It was meant to be a statement of values and principles. We interpret the SEVs as living documents; something that we're working with now; seeing how successful we are in incorporating these principles and values and operationalizing them into day-to-day decision making.

The SEVs were on the Environmental Registry for 90 days for public comment. MOEE did not get a great deal of comment. Perhaps that reflects their level of sophistication, but we did try to incorporate the comments that we did get and agreed that we would review the SEVs for a year. Our final SEV went on the Registry November 15, 1994.

In the MOEE we've developed and implemented a rigorous training program for staff. We've written a number of guidance documents for how to work with the Bill. The total number of MOEE trained staff is more than 800. They got a detailed guide. They got copies of the Statements of Environmental Values. The Directors have copies. We've created a tracking system. Any significant Act, policy, regulation or decision that is contemplated in the ministry is tracked through the *EBR* Office. Staff have to state how they've considered the values in the SEV and the form is signed off by the Director. We've shared the accountability, as you have to do with values.

In summary, MOEE is monitoring the use of our SEV and this will form part of our public consultation documentation. We will consult internally to find out how well this document is working for decision making within our ministry and then use that information to consult externally. The summary of this



consultation with recommendations will be input into our report to the Commissioner by November 1995.

RICHARD LINDGREN

I look at the Bill as a fairly significant breakthrough. It's one of the more significant initiatives that I've had the pleasure of being a part of. I think the Bill itself is a milestone. I think it's also fair to say there has been a variety of problems in its implementation. There have been difficulties, which is not unexpected given the novelty of the law and the fact that we're breaking new ground here. I think the SEVs offer a bit of a case study in terms of the difficulties in implementing the Bill.

I think this is a unique opportunity to speak to the public servants who are actually implementing the Bill. So I thought what I would do as a public service is dispel some of the misconceptions about the SEVs and how they're supposed to be applied and what they're supposed to look like.

The first myth, if I can call it that, is that the current SEVs adequately explain how the purposes of the *EBR* will be applied and integrated. And I think unfortunately Eva Ligeti's open letter, which is on the Registry, reinforces that myth when it says "Well I guess they're okay for now, but we're going to have to work on it over the next year". That, unfortunately, reinforces the view that there's probably not much more fine tuning that needs to be done. I think we have to do more than fine tuning. I think they have to be substantially overhauled.

The *EBR* sets out a number of purposes and principles in section 2. Section 7 of the Act says each ministry will have to develop a Statement of Environmental Values that explains how the principles and purposes of the Bill will be applied and integrated. **How** they're going to be applied and integrated — not whether, not when necessarily, but **how** they're going to be

operationalized, refined, given a ministry-specific flavour, and applied in ministry decision making henceforth.

SEVs were intended to create a substantive framework for ministerial decision making, for policy decisions all the way down. We environmentalists were looking for something like the public trust doctrine. The public trust doctrine would impose a substantive and legally enforceable duty on government to take care of public resources. Where government failed in that duty, members of the public, who are the beneficiaries of the trust, would be able to go to court and seek appropriate relief.

But the SEVs as drafted don't do that. They simply reproduce the *EBR* purposes. Page two says who we are and what our mandate is. Page three says this is what the purposes mean and that's it. In my view, that is not what the legislation intended.

A second myth is that the SEVs were not intended to apply to existing policies or programs within ministries. Some people have suggested that the SEVs only apply to new initiatives, new policies, new programs. That simply is not the case.

If you read the Task Force Report, you will find comments where the SEVs were described as templates — they're substantive principles that could be used to go back and review existing policies, programs, objectives and so forth to see if they measure up to the requirements of the *EBR*.

Myth number three is that the current SEVs provide a sufficient level of detail to allow the Commissioner or the public to assess progress or lack of progress in implementing the *EBR*. I think it's a problematic myth and I certainly wish Eva the best of luck in trying to assess compliance with these SEVs because these SEVs do not contain measurable benchmarks. They don't

contain quantifiable objectives. They do not contain deadlines or time frames for the achievement of these objectives. In short, I think the SEVs do not provide a sufficient mechanism to ensure political accountability for environmental decision making.

I'd always envisioned that you'd take the objectives and purposes of the *EBR* and say in the SEV this is **how** we're going to do it — this is how we're going to get from A to B. I thought we were going to see strategic operational plans, at the provincial policy level, to get from A to B, but that's not what the SEVs look like at this point.

I seriously invite you to find means of reaching the environmental community. I'm not an expert in agricultural policy or natural resource management or financial decision making, but there are people out there in the environmental community who do have good ideas, so think about incorporating or at least soliciting their views and I think we'll all be much better off.

It seems to be trendy for environmental groups to offer grades or to evaluate governmental initiatives respecting the environment. If I was to give a grade in a report card to the SEVs, most of them would get a D. I'd add the note "shows great potential but failed to deliver".

JOHN MACNAMARA

The SEV is a building block. It was never meant to be a strategic plan.

The Task Force shared a common concern — not all ministries are perceived to be or are making environmentally significant decisions based on a consistent set of criteria. We thought it important that each ministry establish a statement that would incorporate a basic set of criteria which reflects the purposes and principles of the Act. Ministries that make significant environmental decisions need a framework to integrate environmental issues



into the decisions.

We also recognized that there needs to be greater government accountability. The Bill was the principal framework and the SEVs are another component of it. The SEV is a ministerial focus for all subsequent decisions. It is intended to be used to produce some certainty in the outcome (process and content).

Since we're facing a significant amount of downsizing and resources are short, this is an ideal opportunity to help people become aware of what are critical issues in environmental decisions, to help them make better decisions on all levels. So to provide a framework, you start with a set of values and principles and you move from there to goals and plans. People, at all levels, will be able to make informed decisions if they understand and apply the set of values and other principles I've mentioned.

The SEV is supposed to be a mission-type of statement, although the values are something that are above a mission statement. The SEV is to contain broad guiding principles. It is not to be detailed. SEVs should be bridges between the purposes of the Act and aligned with all the subsequent downstream decision making.

It's unfortunate that the Task Force Report is not used more often because it clearly describes what the SEVs were intended to be and it should be referred to. The report will help guide people's thinking about what the SEVs were intended to be, rather than just focussing on the Act, because if you only focus on the Act people are going to make up a whole bunch of criteria for the SEVs that was never intended by its creators.

I think most of the SEVs do a good job trying to figure out how in each ministry's environment the purposes of the Act relate to their decision making

and how the decisions that have environmental impacts are made. I don't think they need to be changed. I think they need to be left alone for awhile and allow people to have some time to work with them. The public has had the opportunity to comment on them. Unfortunately there is a misconception about what their intent is and we seem to want to start fixing them before we know if they're broken.

The SEVs are not to be detailed statements that describe how to operationalize the values. They're not to contain specific goals or targets. Downstream significant environmental decision making is to be guided by the SEV.

The following summarizes some of the main issues raised during the ensuing question and answer period.

QUESTION

If the SEV is intended to be a broad statement of principles, what is the next step between the SEV and policy making?

COMMENTS

- At MOEE our priorities are prevention, minimization and resource conservation. Whenever any significant policy, Act, regulation or decision comes through, those are the principles we incorporate. That's how we see the SEV being operationalized and making a difference.
- I have no objection to the sort of higher level principles that are expressed in the MOEE's SEV but that only gets you half way there I think. The next step, the most critical component in my view, is the strategic plan for how you're actually going to do it.

- I think there is something in between the idea of a passive statement of values and a strategic action plan for a ministry. I've been surprised myself by some of the bland statements that have appeared in the Statements of Environmental Values as they've been developed. They really didn't make me feel like somebody was carving out a vision for what the environment or the Bill of Rights meant for that ministry. It's a vision statement so you should treat it like that.
- The SEV should not contain a business plan. In fact, a statement of values should be reflected in the business planning process.

QUESTION

I have a myth and that is the government purposely dictates the legislation in the types of policies and decisions it's supposed to make down the road. I think only the United States came close to that with their Budget Control Bill. Now what you're saying to us is the Statement of Environmental Values is dictating policies, goals, time lines. Is that what you're saying to us?

COMMENTS

It all should refer back to the purposes and principles of the legislation itself. That should be driving the environmental decision making within the ministry, that's what the Bill is all about.

QUESTION

Well it's not supposed to drive decision making. Isn't it supposed to just be a component of decision making? Isn't that what The *Environmental Bill of Rights* says?

COMMENTS

- The legislation identifies the environmental principles and purposes that we should all be striving to achieve but it leaves to the ministries a fair

amount of discretion as to what the SEVs should actually look like and what the policy should look like as well as what the decisions and instruments should look like in achieving those goals. You've got lots of discretion within that framework to do what you've got to do, but let's be explicit and be a little more up front about what we're going to do.

- I'd just like to offer a bit of historical perspective on this as one of those individuals who was involved in the development of the Statement of Environmental Values. What really hangs in question here is, are the Statements of Environmental Values in compliance with the requirements of the legislation? When we started to develop the Statements of Environmental Values those around the table at the Interministerial Committee (IMC) were really struggling with the question of what they should be. What should they look like? What should they contain? And indeed some of us did go back and look at the Task Force Report. It suggests that the Statement of Environmental Values is much like a broad environmental ethic. No one contemplated this notion of getting into detailed work plans, providing specific program objectives or identifying priorities. We asked people from the Ministry of Environment and Energy who had close contact with the Task Force to go back and get further clarification. The clarification that returned from that discussion brought us back to the kind of direction that was provided in these Task Force documents. The first time I started hearing about the concept of getting into detailed descriptions of program priorities and objectives was when we started to receive some of the comments from the public on the Statements of Environmental Values. So, if one is looking to an issue of legal interpretation, my experience with this, and I think the other people from the IMC will agree, is that this concept of a Statement of Environmental Values as we knew it when it was being developed, was really focussed on a broad set of environmental principles and an

environmental ethic. The concept of getting down to a further level of detail was not present when we developed them.

- You've got to go beyond your platitudes about environmental niceties. The challenge of the SEVs was to take them to the next step which is to operationalize them, and make them ministry-specific so we all have a clear sense of what you're going to do, and when and how.

I think you can deal with the whole question of how, in terms of building in the process and addressing those pieces of section 7 into the processes in the ministry on how you incorporate the *EBR* into your daily existence. I can demonstrate the hows related to section 7.

- To follow up on an earlier comment, I think the *EBR* is going to force accountability because we're probably going to have to trot those strategic plans out to the public — it's part of the Environmental Registry notice requirement. That will come. I don't see that it has to be part of the SEV itself, but it will become accountable because we will now have to bring those to the public.

QUESTION

What should the SEV look like from a ministry that doesn't actually develop environmental standards? We look at it as the Ministry of Environment and Energy does the easy job, they create the standards — we want to stop this, mitigate this, prevent that, but in a ministry like ours, we're much more of a ministry in which all the thought processes from around government and outside government come together. We have to make decisions and I just wondered what our SEV should look like. We can't convert ourselves into an environmental ministry creating environmental standards, but we have to reflect all those positions and interests from other ministries and I wonder if you have any comments on what our SEV should look like?

COMMENTS

Well there's no doubt that your ministry does not promulgate environmental standards. But there's no doubt that policy decisions and regulatory decisions made within the ministry can and do have a profound effect, not just on legislative planning, but on natural environment protection at large. So that's why I think the comprehensive set of policy statements that you came up with offers good guidance. That's the kind of stuff I thought would show up in a SEV.

WORKSHOPS

WORKSHOP A:

MAKING YOUR CONSULTATION PROGRAM WORK

Facilitators: Lynne Betts, LURA Group
Peter Lapp, ECO
Adrienne Jackson, ECO

Handouts: See Appendix A

Workshop Purpose: To provide a forum for ministry and the Environmental Commissioner of Ontario (ECO) staff to share ideas and discuss approaches for delivering effective consultation under the *Environmental Bill of Rights*.

The following summarizes the main points raised in the workshop discussion.

The ECO's staff reported the ECO is developing a discussion paper to help ministries with public consultation. The ECO's staff also indicated that there are no set rules on how to approach reporting on ministry public consultation (techniques and findings) as long as it meets a ministry's needs and those of the ministry's stakeholders.

The ECO's staff indicated that the ECO would be pleased to facilitate information sharing on good consultations.

During the rest of the workshop, participants engaged in an open dialogue about challenges to public consultation and solutions. Some of their major comments were:

- There aren't enough options available to do public consultation on the SEVs. Time constraints are limiting. Too expensive to print entire SEV in the newspaper.
- Some ministries have set constituencies that they consult with all the time, but some are not used to/familiar with consulting with stakeholders. Perhaps we should coordinate among the ministries who we'll be asking to participate in the consultation process to prevent overlap and duplicate requests to environmental groups/client groups, so they don't have to answer separately 14 times.
- At the very least ministries should warn the public and their interest groups in advance that a consultation process will begin. Explain "consultation" to them (i.e. define the parameters and limitations) and ask what they expect in terms of feedback and input.
- Explain the difference between "consultation" and "collaboration". In consultation, people's input will not necessarily be taken into account in the decision. People are somehow under the illusion that if they are consulted, their ideas will be implemented.
- Ministries should share the stakeholders that are common to all; meet personally with big business in-house, and set ground rules on public consultation from the outset so they understand the outcome.
- There's a framework already in place that people have agreed to — mail out, internal evaluation, assessment of the kinds of decisions made and how they considered the SEV.

- MOH has a policy advisory group already set up. Consult from the very beginning of the policy development process. There's an evolution. Done slowly and over time, this works well.
- Consultation on policies for urgent issues that the government of the day wants to implement is viewed as token consultation and often backfires. This kind of consultation is a waste of time; done for appearances only.
- It's effective to involve stakeholders in writing policy, and suggesting tools for implementing policies and visions.
- Ministries have a limit on how much we can do. Stakeholder burnout, criticism from ENGOs. We hear about what's negative, not what is positive.

We need to :

- set out functional time lines
- have the right people at the table
- have the political will to do something with the final idea
- have the resources
- have "neutrals" to run the process
- have terms of reference written out for locking them in and getting them to agree to what the process is
- have a commitment to consensus building

- Ministries should pool their best and worst examples of the public consultation processes and let the ECO distribute a handbook on how to conduct effective consultation.
- When doing a consultation, it's important to understand what the participant is getting out of it. People see their interests as being quite divergent, opposed or at cross purposes. If ministries want consultation to work they have to foresee participant polarization, and all the people they consult should share in the goal, and their values and beliefs can be seen to be rewarded in the final outcome of the process.
- Some ministries already have committees set up composed of client groups. One could piggyback consultation onto regular advisory committee meetings. This prevents bringing them in six times by pooling it all on one agenda. If apprised of the consultation early enough, ministries can plan for this on the horizon (advance planning is the difficulty).
- The Registry can be used to disseminate information and to collect feedback.
- The Registry can be used to compile statistical information.
- There should be more direct ministerial involvement. Ministers should show up at the table from the outset and throughout the consultation process.
- MOH has policy papers and consultation is done on a case-by-case basis. Every policy paper has to have a consultation strategy attached to it. This should be a standard process in all ministries.

- Stakeholders feel that if there is consensus among them then government has to act on it.
- When the issue at hand concerns the public good, then broad public consultation is required. But when the issue is a social/moral one, then consultation should be more narrow.

WORKSHOP B: TRAINING STRATEGIES

Facilitators: Bob Shaw, Ministry of Environment and Energy
Greg Yarrow, Management Board Secretariat

Handouts: See Appendix B

The following summarizes the main points raised in the workshop discussion.

WHO IS SUBJECT TO WHAT?

All 14 ministries must have SEVs and consider their SEV in their policies and Acts. Some ministries are subject to different levels of *EBR* involvement. For example:

- MCCR is subject to Regulations, Instruments, Investigations and Reviews;
- MNDM is subject to Regulations, Instruments, Investigations and Reviews;
- MNR is subject to Regulations, Instruments, Investigations and Reviews;
- MOEE is subject to Regulations, Instruments, Investigations and Reviews;
- MNA is subject to Regulations, Instruments and Reviews;
- OMAFRA is subject to Reviews only.

TYPES OF TRAINING

The *EBR* requires different levels of training.

Type 1 — Awareness. This is a general, basic training session on the *EBR* itself and the SEVs. This is usually an information session that increases staff awareness of the *EBR* and how it relates to them.

Type 2 — Administrative Process. This tells you how to do things. People have to be trained on administrative process. The type of training you do is dependent upon what you are subject to.

Type 3 — Specific, Who and What? This depends on the *EBR* involvement of your ministry. It is more for the people who need to know about the legal obligation of the minister/ministry under the *EBR*.

There are two critical questions you must ask when preparing your training strategy:

- Who do you train?
- What do you train them on?

At MOEE for example, the awareness training has been very general and involved all staff because they were fully subject to the *EBR*. MOEE used Ontario Environmental Training Consortium (OETC) to do the awareness training.

After the awareness training, the sessions that followed were more focussed and the audience was more specialized. For example, training sessions on SEVs only were held.

STRUCTURE

The structure of the ministry impacts on the training. If only one branch or group of people in your ministry are in charge of investigations, only they need to be trained. However, if a large number of people are involved in investigations, you'll probably need to provide some level of training to everyone. It is important to know where units or divisions subject to the *EBR* are located. Are they spread out, or in a tight group?

PROCESS

An important thing to determine is what the existing processes are? Also, you need to determine what processes are required under the *EBR*.

EBR PROCESS

Should it be integrated i.e. be part of every day business? Should it be an add-on?

For example, in a centralized ministry, all policies are developed by one branch and all policy decisions are made by the same branch. It means that not everyone in the ministry needs to be trained. It would be better to train the directors with signing authority. It also means that all people under these directors would need to be trained. (This is the integration approach.)

If in a ministry the policy making and policy development process is decentralized, it probably does not need a full training program. It should take the add-on approach. For example, the EA to the ADM or a small office called the *EBR* Coordination Office becomes the central location as far as what needs to be done in order to comply with the *EBR*.

Since the MOEE Minister did not delegate his authority in two divisions, trainers had to decide which level of managers should be trained. They determined that three levels of management should be trained and that all directors needed specific training regarding the legal requirements of the *EBR*. They trained management level because they are accountable for day-to-day operations in the system. They also trained the people working under the managers involved in policy development.

For example, at MOEE, there are scientists in the policy development branch working at developing scientific criteria documents. Since these scientists are developing the policies, they will be receiving comments under the

EBR, hence they had to be trained. A policy developed by a scientist goes to the director's office, then to the *EBR* Office, to the ADM's office, to DM's office, and finally to the Minister. People need to be trained on the process.

STRATEGIC ADVICE

Senior level buy-in. First and foremost, you need senior level buy-in. When you run a training program, you want to be able to identify positions for which training is needed and then issue mandatory training notices for the identified position. At MOEE for example, the order came directly from the ADM's office. Since most of the people in the Operations Division needed training and the ADM was in agreement with the training program, a mandatory training notice was issued.

When the same directors became involved in the approval process (i.e. signing authority), it became difficult for them to do so not having had any formal training on specific *EBR* requirements and legal obligations.

At MOEE, they had to run some of the *EBR* training sessions during regular director's meetings to ensure attendance.

MANUAL

Extremely complex legislation such as the *EBR* needs to be interpreted through manuals. If participants don't have any, call the MOEE's *EBR* Office. It is best to develop individual manuals, for example, a policies and Acts manual, an investigation manual, etc. A procedures manual is also useful. To prepare a manual, you will need to examine a ministry's structure, perhaps by using a flow chart to make sure that the process within this structure can accommodate the *EBR* requirements and if not, to make necessary adjustments.



TRAINERS

Trainers need to know the internal ministry process before even looking at developing a training strategy to comply with the *EBR*. Trainers need to have this information to appear credible to the staff they are training. It would also be important to create a network of resource persons within each ministry. At MOEE, each branch has an *EBR* Coordinator, where additional duties are added to an existing position. The resource person needs to be aware of all legal requirements and internal ministry processes to fulfil the *EBR* requirements.

LEADERSHIP

Management must understand what the *EBR* is and senior managers must consider it in their actions and decisions. If senior management does not understand the training obligations, someone must inform management. Trainers should take on this responsibility.

TRAINING IS ONLY A PART OF IMPLEMENTATION

There is a need to evaluate to what extent ministry specific training can be generic. For example, is it feasible to provide a single training session for an audience of purchasing agents and information systems analysts?

MBS can help with strategic analysis and provide a framework for finding solutions. Since management involvement in the strategic analysis of the structure is crucial, trainers need access to information. Sometimes, management is reluctant to provide such access.

The *EBR* Coordinator for MNR evaluated that the training strategy should be designed to reach potentially half of all MNR staff who are all involved in some form of environmental decision making. At MNR, there is a section that provides continuous training to employees. When it was time to go ahead with the *EBR* training strategy, this office was tied up with providing training for

other legislation so contract staff were hired to train the MNR staff on *EBR* requirements.

They had to go through the process analysis. If more resources would have been available at the time, we would have done: a phase 1 (awareness) training, a phase 2 (key implementation) training and a phase 3 (after implementation) training.

However, they had to combine phases 1 and 2 to save time, and had to offer training sessions to senior and middle managers during their regular meetings. This presentation was to alert people to the *EBR* and get senior level buy-in.

One other key point in the training strategy was to identify key resource people in the ministry. Because they integrated *EBR* requirements into the process of day-to-day activities, they were able to create an *EBR* network. It is very helpful to get up to speed on all *EBR* communications. This way, they were able to reach more staff and help them understand all the *EBR* requirements.

Question. Could you or did you use e-mails and newsletters to communicate?

Response. Staff used both at the beginning to communicate about the *EBR*, and to display the SEV. Now that some of the training has been done, they are better able to work with the communications department.

Question. Could you continue to use the same media to send more information or has it reached a limit where e-mail and newsletters would no longer work as far as an *EBR* training strategy is concerned?

Response. Yes, we could still use the same media.

The first concern was to develop a training strategy and, with the help of OETC, provide province-wide training and develop training documents. They also had to provide training to the libraries that will host the Environmental Registry. MOEE actually opened its training sessions to other ministries. It might be an approach that others should consider.

They found that the more effective sessions were the ones where a ministry resource person was available to respond to very specific questions. Even then, sometimes the questions were so specific that they had to be recorded and the answer(s) provided after the training sessions when the necessary research had been conducted.

At the time of designing the training strategy, there were few resources but locally they had senior management buy-in. They determined that 35–40 of our program managers would be involved or affected by the *EBR* and that the signing off would actually be at the ADM level.

The training consisted of a three-hour session composed of 4 parts:

- Part 1** Background
- Part 2** SEV
- Part 3** Process inside MMA and *EBR* requirements (using form created)
- Part 4** Case studies and scenarios

There were several training challenges due to the limited resources; therefore, they first trained the managers and then the managers trained their staff or shared the training responsibilities with the Environmental Coordination Office.

WORKSHOP C:

TRACKING, MONITORING AND REPORTING

Facilitators: George Potter, Ministry of Culture, Tourism and Recreation
Joel Kurtz, ECO

Handouts: See Appendix C

The following summarizes the main points raised in the workshop discussion.

The information gathered in the tracking, monitoring and reporting stages ultimately forms the basis of the Environmental Commissioner's annual report to the Legislature. It was stressed that at the time of the workshop there were no official guidelines on reporting. The purpose of the workshop was to provide for a free exchange of ideas between the participants on the reporting structure. No commitments were made by any of the participants.

Five main issues were discussed during the workshop: Cooperation between ministries and the Environmental Commissioner (EC); ministry implementation of the *Environmental Bill of Rights*; ministry consideration of SEVs in decision making; Use of the Environmental Registry; and format of the report. These issues were derived from consultations with the Environmental Commissioner of Ontario and Inter-Ministerial Committee (IMC).

COOPERATION BETWEEN MINISTRIES AND THE ENVIRONMENTAL COMMISSIONER

It was suggested that this area consist of a general summary highlighting cooperation and participation such as responding to requests for information and documents, providing input/comments on proposals to the Environmental Commissioner of Ontario, and attending ECO conferences.

Questions arose concerning the exact requirements of the *EBR*. It was suggested that, according to s.57 of the *EBR*, the onus is on the ECO to review the cooperation by a ministry, therefore, it is not the responsibility of the ministry to provide this information.

It was agreed that the onus was on the ECO, however, the ministries can benefit by providing information from their own positive perspective.

There was concern over a bottom-up approach to requesting participation in reporting and the suggestion that the ECO communicate on this matter with Deputy Ministers. The ministries need more guidance and direction from the ECO. The ECO would like to be made aware of any problems or concerns.

A participant asked what the goals of the report are and the split between qualitative and quantitative information required. It was suggested that the ideal report may consist of a balance between the two types.

The significance of the Environmental Registry was questioned at this point. It was noted that public participation has been low, perhaps due to difficulty in understanding the legal jargon used. It was suggested that participation may increase with increasing familiarity with the *EBR*.

It was further suggested that the ministries' report distinguish between what is specifically mandated by the legislation and any additional information that is deemed relevant. A ministry, if it wishes, could also critique the ECO in its report.

There was concern that the ministries may not have the resources to respond to the ECO's demands for information. The gathering and reporting of information to the ECO should not be onerous. The report may give the ministries an opportunity to explain why certain criteria have not been met.

Another concern raised was the right of access to these reports by the public. This would perhaps inhibit any criticism or self-assessment in the reports. It was pointed out, however, that the ECO is not covered by Freedom of Information legislation.

MINISTRY IMPLEMENTATION OF THE *EBR*

This includes the definition of "decision", how environmental significance is determined, procedures for use of the *EBR* within the ministry, monitoring and tracking procedures, awareness and training, and Registry procedures and implementation.

The first question was where the legal authority comes from. The source is s.58(2)(b) of the *EBR*.

It was asked if all the decisions made within a ministry should be listed, then environmentally significant ones derived from this list. Since many decisions do not have environmental significance, it was suggested that only those decisions considered environmentally significant from the outset should be included. In order to do this, decisions should be classified. Criteria must first be determined for environmental significance and then applied to different decisions.

It was asked if the ECO had some form of "shopping list" to ensure consistency across all ministries. It is difficult to generalize across all ministries, however, a decision tree for assessing environmental significance is being developed by the ECO in consultation with the ministries.

It was again suggested that there is no legislative authority to request such information. Another participant emphasized that cooperation with the ECO is important and that it is probably in each ministry's best interest to do so. The ECO will report to the legislature fairly.

The mechanisms for reporting and the content of the reports will evolve with time. A participant asked if the ECO has determined the structure and nature of the formal request for information from the ministries. The format was not yet finalized.

MINISTRY CONSIDERATION OF SEVs IN DECISION MAKING

It was suggested that this include how the SEV was applied in the development of environmentally significant decisions. The recording of successes, problems and other examples would also be useful.

There was some disagreement on the purpose and content of the SEVs. There was a question on what constitutes a decision. This, in part, stems from difficulty with the term "policy" as defined in the *EBR*. The problem is unique to each ministry. The ECO will provide advice and assistance to ministries in developing their classification systems.

The question was raised as to how the shift in the corporate culture due to the *EBR* will be captured in the report. Perhaps it could be anecdotal; a comparison made between the way things were done before and after the application of the SEVs. For some ministries, a shift was already occurring. In this case, how could the effect of the SEV be separated from the changes that are independent of it? It was clarified that it is not necessary to show that improvements are due solely to the impact of the SEVs.

USE OF THE ENVIRONMENTAL REGISTRY

It was suggested that this item include a list of policies, Acts, regulations and instruments placed on the Environmental Registry for consultation, the number of responses received, and additional public consultation activities.

It was suggested that the ECO could take this information directly from the Registry. However, the Registry is just a bulletin board and will not generate statistical reports.

The suggestion was made to have a database developed for the Registry. Currently, the information has to be manually down loaded and summarized. A database originally was to have been established but was considered too expensive.

FORMAT AND TIMING OF REPORT

The suggestion was made for an interim report to be submitted by December 31, 1995 covering the period up to September 30, and a final report by February 28, 1996, covering the entire year. The majority of participants were opposed to having to submit a draft copy because of limited resources and time constraints.

Another suggestion was for submission of a single report 60 days after the year ending December 31, 1995. One participant suggested that the report cover the period ending March 31, 1996 (end of the fiscal year) bringing it in line with other ministry reports.

SUMMARY

The participants focused primarily on the following issues: the lack of definition of "decision", "environmental significance" and other terms; not enough top-down participation; consistency across ministries; and legislative authority.

Other concerns pertained to time and resource constraints, the detail required for the first report, and the need for an interim report.

WORKSHOP D:

WHAT IS AN ENVIRONMENTALLY SIGNIFICANT DECISION?

Facilitators: John Regan, Ministry of Health
David McRobert, ECO

Handouts: See Appendix D

Purpose: To begin a dialogue on the aspects of assessing the environmental significance of ministry decisions.

Agenda: Introductions
Agenda and Process
The IMC document
ECO perspectives
Examples
Discussion
Wrap-up

The following summarizes the main points raised in the workshop discussion.

THE IMC DOCUMENT

John Regan began the workshop with a discussion of the *Guidelines For Assessing The Environmental Significance Of A Policy, Act, Regulation Or Instrument* developed by a subcommittee of the Interministerial Committee (IMC) (see Appendix D). The guidelines are generic for all 14 ministries. They are not a definition of an environmentally significant decision but are more of a checklist. The starting place for examining environmental significance is the *EBR*.

Regan turned to a more detailed discussion of the IMC document beginning with Part A, “Assessment of the Environmental Impact of a Proposal.” Eight purpose statements are laid out in the *EBR*. These purpose statements have been translated into questions in the IMC document.

1. Does the proposal protect, conserve and where reasonable restore the integrity of the natural environment?
2. Does the proposal affect the purpose of the *EBR* to provide a sustainable environment?

Regan then turned to Part B of the IMC document, “Factors To Be Considered in Assessing the Significance of the Environmental Impact of A Proposal”, which asks ministries to consider if a proposal has an environmental impact.

Regan said the problem is what constitutes an environmentally significant impact. For example, in Alberta, a species of bird was deafened by low-flying aircraft, which resulted in the birds being unable to locate each other for mating. This is something which clearly had an environmentally significant impact. Think about how interconnected all environmental decisions can be. Consideration should be made of the following factors:

1. Geographic Extent
2. Degree of Impact
3. Type of Impact
 - a. Land, Water, Air
 - b. Animal Life
 - c. Plant Life
4. Extent and Nature of Mitigation

When considering these factors, indicating “don’t know” is not the same as “no impact”. If ministry staff are uncertain, they should check with their ministry IMC representative and find out who has expertise in that area.

ENVIRONMENTAL COMMISSIONER OF ONTARIO

The discussion was then turned over to David McRobert. He pointed out that the ECO had put together a selection of handouts to assist ministry staff. (See Appendix D). He referred first to a selection of extracts of the *EBR*. He also referred to a collection of definitions of various terms that are used in the *EBR*. He stressed that the ECO does not endorse the definitions that are taken from such sources as *Black’s Law Dictionary*. They were provided to assist ministry staff interpret the *EBR*.

DECISION TREE

As a third handout, the ECO’s proposed decision tree was introduced to assist ministries in assessing and evaluating the significant environmental effects of proposals for new policies, Acts and regulations. The decision tree can be used to help interpret s.14. of the *EBR*. This is not a model which must be followed. This is a starting point ministry staff can use to understand what a decision could look like.

The ECO provided a fourth handout; an extract from the Ministry of Housing’s (MHOU) manual on the *EBR*. This extract is not endorsed by the ECO but is a useful example. It outlines MHOU’s check list and compliance system. Again, while the ECO does not endorse this system, McRobert said it has much to commend it as the most detailed approach to environmental significance the ECO has seen to date.

A fifth handout was a table on significant environmental effects. This table is adapted from the Canadian Environmental Agency's "Reference Guide: Determining Whether a Project is likely to cause Significant Adverse Environmental Effects". Changes in the environment that might be considered significant environmental effects are listed. Effects on people resulting from environmental changes are also listed.

The ECO has a specific mandate. Its primary powers as outlined in sections 57 and 58 of the *EBR* are to review decisions and the exercise of discretion by ministers and then report to the legislature. To ensure the ECO can exercise its reporting responsibility in a fair manner, it needs to see some evidence that potentially significant environmental effects have been considered.

The difficulty is that there is no generally accepted practice for doing this in the same way that there are generally accepted accounting practices or generally accepted auditing standards. The ECO will work with the ministries to develop a common understanding. It is considering preparing a discussion paper to provide more detail and clarity on the topic of environmental significance. The ECO has been working on other discussion papers — for example on consultation, and registry notice.

The *EBR* contains 10 references to the terms "significance" and "significant" :

- section 2;
- sections 7& 11 are references which pertain to Statement of Environmental Values
- section 14 which deals with assessing environmentally significant policies, Acts and regulations
- section 20 with respect to classification of environmentally significant instruments

- sections 22 & 30
- section 57 (b) ii where the ECO is empowered to help ministries, when requested, to ensure that SEV's are considered whatever decisions that might significantly affect the environment are made
- section 41 says that significant harm to the environment is one factor that should be considered when an appellate body decides on granting a leave application
- section 84 says that the right of action to sue for harm to a public resource requires proof that significant harm has occurred or will occur

Section 14 of the *EBR* will be of major importance to ministries in determining environmental significance. It does not give a precise indication of how decision makers will assess what are environmentally significant decisions. The IMC document is a good first step in the determination of how to interpret environmental significance. One item the ECO has pointed out is that there is no specific traceable and trackable process which the ECO needs to do its job. The ECO's proposed decision tree was developed in part to help ministries move toward a more trackable system.

Reference was made to a paper written by Allan Howatson for the Conference Board of Canada called "Reforming Public Policies For Sustainability" (see Appendix D). The Howatson paper provides some insight into policy making and how it interfaces with the natural environment. This will help in determining which policies are subject to screening. The integration of the environmental considerations into environmental decision making is a difficult and complex process.

McRobert made reference to another useful document: "The Integration of Environmental Considerations into Government Policy" by Francois Bregha .

McRobert pointed out that there is a link between the ECO's proposed

decision tree and documentation of the decision making process. He urged ministry staff to document their decision making processes so that those processes are reviewable.

CONCLUSION

The workshop then evolved into a general discussion among the facilitators and participants.

The ECO hopes that all ministries will classify their decisions into categories based on generic information about environmentally significant effects. The ECO is willing to work with ministries on this process.

A workshop participant suggested that all proposals must be considered when a proposal is put forward. Leaving something out might be as significant as including it and it should be posted as environmentally significant.

The ECO thinks it is important to clarify the amount of discretion exercised in making decisions in the context of programs. If there is no discretion exercised in the context of the program, then it may not be caught by the *EBR*.

Another participant asked if the ECO has considered how to review ministerial discretion. Once a matter is brought to the ECO's attention, the ECO will take a balanced and fairminded look at the decision.

The ECO is considering preparing a discussion paper on what is an environmentally significant decision with general points to assist ministries. A workshop participant said that if the ECO does issue such a paper it would be useful if the ECO could hold a workshop for ministry staff to explain the paper.



APPENDICES

HANDOUTS FOR WORKSHOPS





APPENDIX A

HANDOUTS FOR

WORKSHOP A: MAKING YOUR CONSULTATION PROGRAM WORK



11

OFFICE OF THE ENVIRONMENTAL COMMISSIONER OF ONTARIO
ENVIRONMENTAL BILL OF RIGHTS - A NEW ERA IN
ENVIRONMENTAL DECISION MAKING
JUNE 6, 1995

Making Your Consultation Program Work

Workshop Purpose: To provide a forum for Ministry and Environmental Commissioner staff to share ideas and discuss approaches for delivering effective consultation under the EBR.

1:15 - 1:25 Participant and Facilitator Introductions
Opening Remarks from the Office of the Environmental Commissioner
Review Agenda, Goals, Workshop Purpose and Proposed Focus Questions

1:25 - 1:55 *Consultation Experiences - What Works For You?*

Focus Questions:

*What consultation techniques have worked for you? Why did they work?
What consultation techniques have not been effective? Why not?*

1:55 - 2:20 *Meeting the Challenges - What Are The Solutions?*

Focus Questions:

*Can you identify any challenges to effective consultation?
What are the solutions to overcoming the challenges?
Can ministries work together to meet the challenges?*

2:20 - 2:45 *Achieving the Solutions - What's Next?*

Focus Questions:

*How can the solutions identified be achieved?
What steps can you begin to take right away? How can priorities be set?
What assistance etc. is needed in order to meet the challenges?*

2:45 Wrap-up & Adjourn

Public Participation



- *Rights and Responsibilities*
- *Community Resource Boards*



COMMISSION ON
Resources and
Environment

Foreword

The Commission on Resources and Environment (CORE) was given the legal responsibility in 1992 to “develop for public and government consideration a British Columbia-wide strategy for land use and related resource and environmental management” (*CORE Act*, s. 4(1)). Following two years of extensive public consultation and research, the recommended provincial land use strategy is set out in four volumes.

Volume 1 — A SUSTAINABILITY ACT FOR BRITISH COLUMBIA — describes the overall structure and purpose of the provincial land use strategy and recommends that a statute confirm the obligations

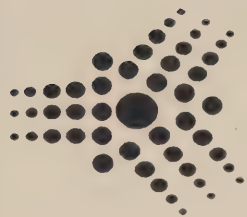
- to develop and comply with sustainability principles, goals and policies
- to develop balanced land and resource use plans
- to involve the diverse interests of society in decision-making
- to reach just settlements with First Nations, and
- to monitor and adapt our responses to achieve sustainability.

Volume 2 — PLANNING FOR SUSTAINABILITY — provides an in-depth review and detailed recommendations regarding legislation, structures and other measures to improve the overall land use planning system in British Columbia. The planning system is a primary part of the provincial land use strategy.

Volume 3 — PUBLIC PARTICIPATION — reviews the experience of public participation in land use decisions in British Columbia, and makes recommendations for a flexible framework of community resource boards that are voluntary, inclusive of all interests, accountable to the public, purpose-driven, advisory and consensus-seeking.

Volume 4 — DISPUTE RESOLUTION — addresses the need for simple and accessible review and appeal mechanisms to ensure efficient, consistent and comprehensive opportunities for persons whose lives are affected by land use and related decisions to have their concerns dealt with. Specifically, this volume makes recommendations on a land use appeal system for the review of the administration of land use plans.

The illustration on the cover of this report symbolizes sustainability. The earth is a fragile and threatened treasure that we hold in trust for our children and future generations beyond. It should be inconceivable to all of us that we could fail to respect this trust.



COMMISSION ON Resources and Environment

Overview

In recent years the need for public participation in land use and related resource and environmental decision-making has become particularly acute because of increasing pressures on our natural heritage, and the importance of economic, environmental and social sustainability. At the same time, public demand for participation has been strongly expressed throughout the province — especially in areas with significant competition among different values.

The absence of meaningful public participation in decisions has potentially serious consequences. Decisions which fail to balance public interests through a lack of reliable information or as a result of relevant interests not being given sufficient attention lead to instability, continuing conflict, lack of sustainability, and long-term inefficiencies in the use of government personnel and funding.

As part of its statutory mandate, the Commission on Resources and Environment (CORE) is developing a provincial land use strategy to promote sustainable land use and resource management. Meaningful public participation is an essential part of this strategy. This report describes the actions necessary to ensure that this occurs.

PUBLIC RIGHTS AND RESPONSIBILITIES (CHAPTER 1)

Meaningful public participation in decision-making is both fair and essential. The principles of administrative fairness require that those affected by decisions have the opportunity to take part in making them; and achieving sustainability requires that all interests be heard and balanced. The government should now recognize the general right of participation in law as a necessary element of the provincial land use strategy.

The right of participation must be balanced by the responsibility to participate in good faith. The efficiency and effectiveness of public participation processes depends on the recognition by all who participate that their individual interests can best be met by respecting and accommodating the interests of others. A code of conduct is required to ensure that the right of participation is exercised in a responsible manner.

A POLICY FOR PUBLIC PARTICIPATION (CHAPTER 2)

Meaningful participation requires knowing when and how to involve the public in decision-making. Routine decisions can often be made without consulting the public, but this is not true of decisions with a significant impact. When participation is called for, the appropriate form may range from a simple exchange of information to intensive public negotiations.

Government needs a detailed, cross-agency policy with clear criteria to guide decision-makers in the choice of participatory processes. CORE proposes to work with government in the development of the general policy and the refinement of existing ministry policies for public participation.

PUBLIC NEGOTIATION (CHAPTER 3)

Since the 1970s, the nature of public participation in land use and resource management decisions has been changing, with increasing emphasis on consensus-seeking, multiparty negotiations. The role of decision-makers has significantly shifted from that of arbiter of the public interest to facilitator among the range of interest groups in society that collectively help to define the public interest.

The more challenging the decision, the greater the need for intensive public negotiation processes. This has been shown in the ongoing preparation of strategic land use plans, which are now being developed or have been completed for more than half of the area of the province.

There are many recent examples of successful public negotiations, and each negotiation process provides useful lessons that are continually helping to improve the use of this vital form of participation.

A FRAMEWORK FOR ABORIGINAL PARTICIPATION (CHAPTER 4)

Respect for and accommodation of aboriginal concerns is vital in decision-making processes, as the negotiation of treaties creates a new relationship between the provincial and federal governments and First Nations.

While treaty negotiations continue, a framework for aboriginal participation in land use and resource management decisions is essential to ensure fairness to First Nations and the general community. The detailed framework described in chapter 4 will promote aboriginal involvement in public participation processes and openness and understanding between First Nations and the general community.

DEFINING COMMUNITY RESOURCE BOARDS (CHAPTER 5)

The impact of land use and resource management decisions is often greatest at the local level, in the communities where people work and live. This is the level where the need and demand for meaningful public participation is greatest, both in the implementation of land use plans and in addressing issues of local concern.

Many communities have formed multiparty community resource boards or round tables, representing the full range of community interests, to provide a means of working out cooperative solutions on important issues. The keen interest in this form of participation has been reflected in the agreement at all regional CORE tables to implement and support community resource boards throughout these regions.

Community resource boards provide a hands-on opportunity to reconcile competing yet legitimate interests and help shape provincial decisions, emphasizing the sustainability of jobs, the environment, and quality of life.

Community resource boards have several essential characteristics. They are voluntary and purpose-driven, open to participation of all interests and consensus seeking.

Through inclusion and cooperation, community resource boards harness democratic energy at the local level, and provide government with an efficient forum for advice on decisions that require public information, balance and support.

To make the best use of the time volunteered by citizens who participate in community resource boards, and to ensure that the boards have the means necessary to provide effective results in an efficient manner, some administrative and funding support by government is essential. In addition, communication and support among community resource boards,

through a provincial network, can considerably help the smooth operation of individual boards.

As part of its mandate to facilitate the development and operation of community-based participatory processes, CORE proposes to encourage the efficiency and effectiveness of existing and potential community resource boards by:

- continuing to support pilot projects as a source of practical information on how community resource boards can be best organized, operated and supported
- hosting a provincial workshop for representatives of existing and potential community resource boards to increase understanding of the role and to support the development of a provincial network of community resource boards
- assisting government in the design of cost effective institutional arrangements to support community resource boards in the long-term.

Together, the discussion and recommendations in this report are intended to meet democratic demands for fairness and the need for social, economic and environmental sustainability through efficient and effective public participation.



Stephen Owen
Commissioner

2

A Provincial Public Participation Policy

The Need

Opportunities for public participation in land use and related resource and environmental decision-making are steadily increasing, in large part because government and the public recognize that the result is better, fairer and more stable decisions. Statutory recognition of the general right of participation is an important step toward securing this trend.

However, statutory recognition is not by itself sufficient to ensure effective participation. Once acknowledged in law, the general right of public participation and associated responsibilities needs to be implemented through a comprehensive policy to provide clear guidance to decision-makers and the public.

A comprehensive public participation policy is required to guide decision-makers on when, how and from whom to seek participation under the widely varying circumstances of many thousands of land use and related decisions. Most of these decisions are routine and relate to the day-to-

day implementation and administration of established legislation, regulation, policies, plans and associated programs. However, many decisions involve major government policy, as in the case of the Forest Sector Strategy, new strategic land use plans and major projects. Decisions may affect only one or a few individuals, or they may affect whole sectors of interest, entire communities and the broader public. The degree to which each of these is affected also varies.

The nature of participation in decisions should vary depending on how many are affected, and to what degree. For example, routine decisions with little or no impact or those made to implement earlier decisions which included public participation may not always require participation. In other circumstances, participation requirements may be satisfied by a limited number of citizens receiving notice or engaging in informal discussion. Major government policy initiatives may require extensive consultation or multiparty negotiation processes.

A comprehensive policy should establish clear criteria for the nature and degree of public participation depending on the type and quantity of information needed by the decision-maker to reach an informed decision. While increasing participation opportunities exist, the absence of explicit standards leaves room for inconsistency or apparent arbitrariness in decision-making which can cause public uncertainty and distrust of government.

Variations in agency funding and staffing and the absence of criteria for public participation have led to widely differing approaches within and among agencies, and from one part of the province to another, sometimes even in cases where the issues, scope and potential consequences are effectively the same. For example, the public participation practices of the Ministry of Forests in the six forest regions and 43 forest districts of the province often depend on the point of view and resources available to individual regional and district managers. The absence of explicit criteria has caused variations in whether or not areas have been subject to LRMP and local resource planning processes, the nature of agency and public participation in these processes, and the approach to participation in the Protected Areas Strategy in different areas of the province.

Without established criteria it is difficult to hold decision-makers to account for consistency in their decisions related to public participation. Citizens cannot be assured that they are being treated fairly or that the recent trend toward greater public participation will continue. And decision-makers bear the unwelcome burden of judging the need for and nature of public participation without reference points.

A public participation policy should also establish the responsibilities of participants in public decision-making processes. The right to participate brings with it the responsibility to do so in good faith, to become informed and to respond in a timely manner. A code

of conduct or responsibility is needed as part of the policy to define the accountability of participants to each other, to constituencies, to the community and to the broader public.

Finally, the trend to coordination and integration of land use and related decision-making should be extended to public participation initiatives. The Forest Practices Code of British Columbia Act (not yet in force), the Environmental Assessment Act (not yet in force), and the land and resource management planning processes (LRMPs), each of which consolidate and integrate aspects of land use and management planning, are examples of this trend. However, this is not generally the case with public participation and, consequently, participation initiatives may not adequately address or reconcile relevant social, economic and environmental matters and may waste scarce human and financial resources.

The lack of coordination and integration results in difficulties such as the inability of some agencies to participate effectively in participatory initiatives due to lack of financial and staff resources. In addition, clearly related or overlapping issues may be considered in different participation processes. As the British Columbia Round Table on the Environment and the Economy noted,

there is now a bewildering array of public involvement processes at all levels of governance.... In some instances, several public involvement processes have been going on at once with mandates that appear to overlap or duplicate one another. The public is feeling like it is being "consulted to death". Beleaguered interest groups and active citizens are having to pick and choose among processes for lack of time and energy to respond to them all.¹

The primary purpose and effect of a comprehensive and integrated policy is not necessarily to increase participation but rather to encourage more efficient use of limited

government resources and more effective participation.

It is neither possible nor desirable for every interested member of the public to participate in each decision and to the same degree. Available resources need to be directed thoughtfully to have the greatest effect. A public participation policy is needed to make clear why participation is important, when and how it should occur to best complement different decisions, what is required to make the policy operate, and the roles, rights and responsibilities of the public and decision-makers. This chapter provides the basis for developing a provincial public participation policy for land use and related resource and environmental decisions.

Elements of a Public Participation Policy

Comprehensive policy provides direction by systematically setting out

- general principles establishing the social values that provide the context for a policy
- goals that describe the intent and purposes of the policy
- criteria for determining the need for and appropriate level of participation in keeping with the principles and goals
- requirements to implement and administer the policy
- roles, rights and responsibilities of decision-makers and the public affected by the policy.

These elements are described below.

Principles

The provincial Land Use Charter, adopted in principle by the Government of British Columbia in June 1993, describes principles of economic, environmental and social sustainability to guide land use and related resource management decisions, and includes the principle of participation as a fundamental component. By articulating social values, the principles serve a dual purpose in a public participation policy framework: as touchstones in the development and implementation of the policy, and as standards against which to evaluate the effectiveness of the policy. The Land Use Charter states that

Environmental, economic and social principles shall be implemented and reconciled in neutrally administered decision-making processes that are open to the participation of all interests. The processes shall promote decision-making through the building of consensus among diverse perspectives and stakeholders.

The processes used for making decisions regarding land, resource and environment use must be:

Comprehensive and Integrated - Land use planning and management shall be cross-sectoral, comprehensive and integrated. The processes will address the full range of environmental, social and economic concerns and values.

Fair - The processes will adhere to the principles of administrative fairness, and shall provide full public access to relevant information.

Efficient and Effective - The processes will strive for efficient use of time and financial resources. Decision-making will be based on adequate information and assessment, so that wise and effective decisions can be

made. The processes should effectively implement the principles of a sustainable society.

Accountable - Decision-makers must be accountable to all participants in the processes, as well as to the broader public. Lines of accountability should be established for participants in decision-making who represent others. Overall, the processes must be responsive to community aspirations while maintaining consistency with provincial principles, goals and policies.

Enforceable - The decisions made must be properly monitored and enforced.

Adaptive and Flexible - The processes shall be capable of modifying decisions in response to technological innovations, field experience, shifts in social preferences, and new information. These modifications will be made in a manner that maintains social, environmental and economic stability.

Respectful - The processes shall encourage respect for the diverse values, traditions, and aspirations of British Columbians and their communities.²

Goals

In volume 1 of this provincial land use strategy series, *A Sustainability Act for British Columbia* (November 1994), CORE recommended the enactment of a Sustainability Act that would empower cabinet to approve an integrated set of land use goals to give effect to the principles of the Land Use Charter.³ CORE, together with a broadly based inter-ministry policy committee, has developed a draft set of goals for substantive land use and resource management issues such as resource lands, economic development, sustainable environment, transportation, energy use, human settlement and protected areas. The goals are set out in appendix 3 of volume 1.

Goals set the direction for policy development by expressing the intent or purposes of a policy. Cross-ministry goals provide a clear indication of the provincial interest, a basis for the review of initiatives, and direction, focus and common purpose for all agencies. Consequently, they increase efficiency and effectiveness of planning processes. For these reasons goals form a critical element of the public participation policy.

The goals of public participation can be expressed as

- to ensure meaningful and cost-effective participation of individuals, groups, and communities affected by decisions
- to ensure that all relevant considerations, including local information and knowledge, are integrated in decisions
- to give effect to the principles of administrative fairness
- to offer participation processes which are appropriate to the circumstances
- to build cooperative working relationships among sectors of the public and between the public and the government
- to encourage the building of consensus, stability of decisions, and avoidance of disputes
- to ensure a balance of local and provincial interests in decisions.

Criteria

Government policy should guide decision-makers in and ensure the public of the consistent application of the participation principles and goals. Criteria are an important part of the public participation policy because they help determine when participation is needed and what level of participation is appropriate in a given case. This section consolidates the experience of CORE and several provincial and federal agencies as a starting point for developing a set of formal criteria consistent with the principles and goals described above.

Determining the appropriate level of public participation in different decision-making situations is a matter of judgment guided generally by the nature of the decision (significance and potential consequences), the amount of public interest (level of concern and conflict), and specific fiscal or administrative constraints on the agency. Some direction may be offered in the enabling statute, regulations or agency procedure manuals, but in many cases, the participation method is largely at the discretion of the statutory decision-maker.

The decision-maker must weigh the prospective benefits against the costs of various levels of participation. These benefits include more fully informed, balanced and stable decisions, building public knowledge about and support for a decision, and fewer subsequent delays and disputes. They must be set off against the time and resources required (from both public managers and participants) to fully support intensive consultation or negotiation processes.

Several federal and provincial agencies⁴ including the Federal Environmental Assessment Review Office (FEARO), the B.C. Ministry of Environment, Lands and Parks (MELP), the B.C. Ministry of Forests (MOF) and the B.C. Round Table on the Environment and the Economy (B.C. Round Table) have taken important steps in developing criteria for determining the appropriate level of participation in land use and related resource and environmental decisions. The experience of these agencies makes clear that there are two fundamental issues to which criteria must be applied:

- the need for public participation
- the appropriate level of participation in specific situations.

ASSESSING THE NEED FOR PUBLIC INVOLVEMENT

One of the goals of public participation is to give effect to the principles of administrative fairness. The principle dealing with public participation states that:

An opportunity for meaningful participation must be provided to those individuals or groups whose interests are affected, directly or indirectly. Meaningful participation means that individuals, groups, local government or any other party with significant and legitimate interests will be recognized in the planning, implementation and conflict resolution processes. It implies that their representations will receive careful consideration and will be accorded due regard consistent with the importance of the individual's interest. In other words, a duty is placed upon the decision-maker, insofar as is reasonably possible, to appreciate fully the significance of and the foundation for the various individual or group interests.⁵

In recent years the public has given a clear message that it expects to participate to a greater extent than previously and in a manner that provides a more balanced and efficient exchange of information. This does not mean that the public either wants to or should participate in every decision. It does, however, indicate a low threshold level for triggering direct public participation.

The FEARO manual on public participation recommends public involvement when

- the decision requires making choices between important social values
- positive public support for a proposed action or decision is desired
- a key public perceives that it has a lot to win or lose by a decision
- the results of a decision will significantly affect the economic, social, or political interests of some people or groups more than others

- a decision will significantly affect an already-existing controversy in the community.⁶

A similar approach was taken by the MELP in its handbook which suggests that the public should be involved in decision-making when

- the decision requires the balancing of competing and important social values
- the decision will significantly affect economic, political or social interests of some people or groups more than others
- the public perceives that it has a lot to win or lose
- better policy options will result from public input
- there is a political commitment to undertake a program
- the decision involves a controversial subject
- the decision may potentially affect or infringe on the rights or claims of aboriginal people.⁷

Slightly different criteria were advocated by the B.C. Round Table which concluded that public involvement is required in government decision-making where

- public values have not coalesced or are uncertain
- it is difficult to identify a specific public audience
- factual information is sparse, unknown or subject to considerable dispute
- the goals of government and the perspectives of affected parties are not the same.⁸

All of these approaches recognize that the onus is on the decision-maker to exercise judgment in assessing the need for a public participation process. The challenge lies in developing criteria that can assist decision-makers to exercise this judgment consistently. Considering the following questions in the context of a particular situation will help in this regard.

Subject of the Decision

- is the decision being taken as a result of political commitment or direction?
- does the decision require balancing conflicting interests?
- is the subject of the decision controversial?
- does implementation of the decision require public acceptance?

Effects of Decision on Groups and Individuals

- will the decision significantly affect the environmental, social, or economic interests of groups or individuals?
- will the interests of some groups or individuals be affected more than the interests of others?

Clearly, there will not always be simple "yes" or "no" answers to these questions. Their purpose is to guide the decision-maker in assessing the depth of the need for a public participation program, thus aiding the exercise of discretion in the next consideration — determining the appropriate level of public involvement in a particular situation.

DETERMINING THE APPROPRIATE LEVEL OF PARTICIPATION

Public participation in land use decisions links those affected by decisions and those accountable for making the decisions. Generally, the more significant and controversial a decision, the higher the level of public participation required. Although the significance of a decision and the level of controversy surrounding it is often difficult to assess precisely, a decision-maker can account generally for these factors in determining the purpose of a particular participation process. Thinking in terms of the purpose for involving the public is helpful in determining the appropriate participation method in a specific situation. The methods include a range of activities along a continuum defined by the purpose for seeking public participation.⁹

As is the case when assessing the need for public involvement, judgment must be exercised in determining what level and method of participation is appropriate for a particular situation. Consultation with prospective participants will help this.

The following is a consolidation of criteria used by CORE and the agencies referred to above in determining the appropriate level of participation in a particular situation.

Need for Public Commitment

- Is public commitment required to effectively implement the decision?

Level of Conflict

- How controversial is the issue?
- Is conflict apparent?

Nature and Complexity of the issues

- Are there many issues to resolve?
- Do the issues require innovative solutions?
- Will the decision have political ramifications?

Public Interest

- Is the general public interested in the issue?
- Does the public expect to be involved in the decision?

Time and Resource constraints

- How much time is available to make the decision?
- Are there overriding priorities for available resources?

Range of Interested parties

- Can the interested parties be identified?
- How many interested parties are there?

Decision-Maker's Discretion

- How much discretion does the decision-maker have in making the decision?

Information

- Is adequate information available?
- Is there disagreement over technical data and information?

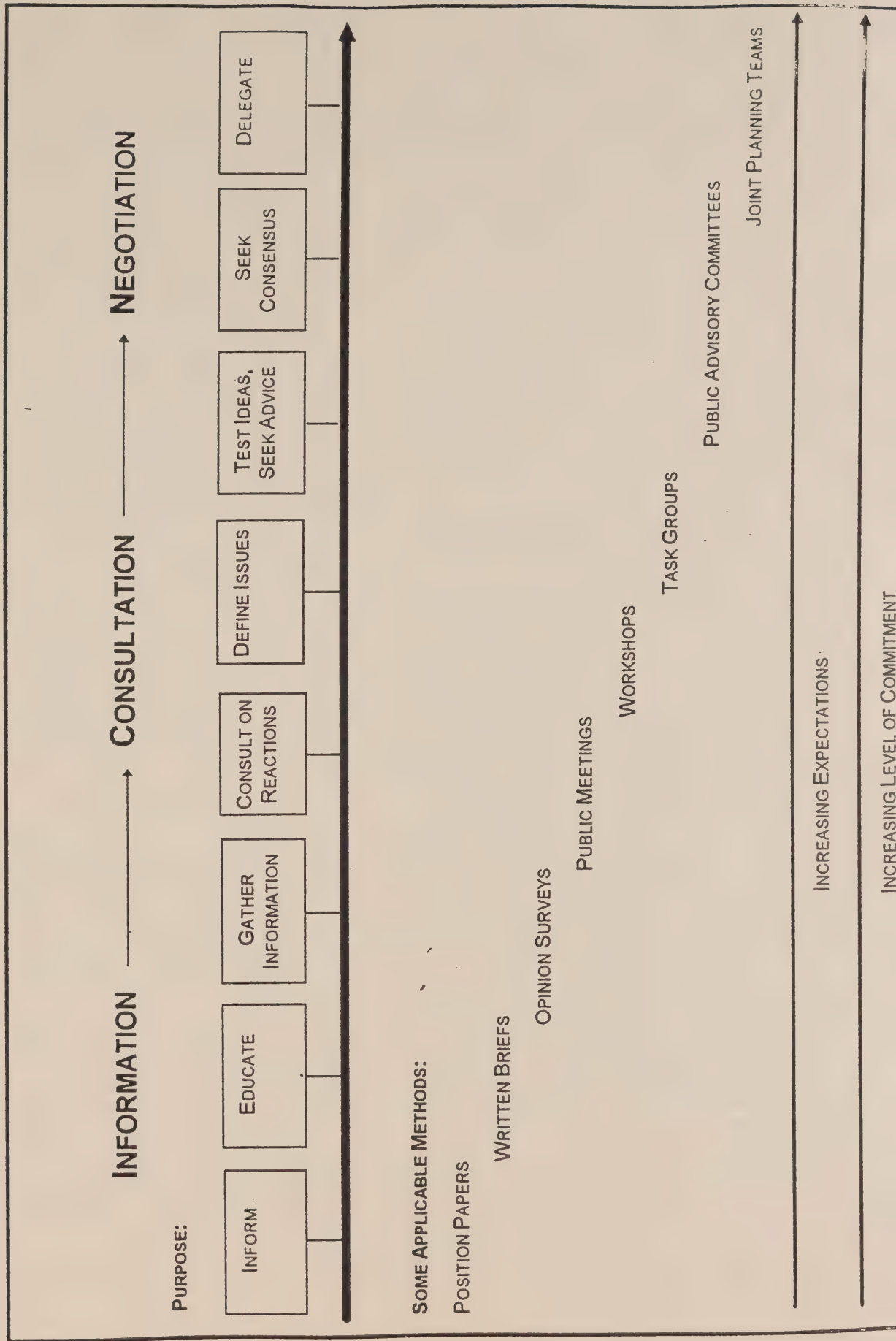
Decision History

- How much participation occurred in higher-order decisions?

Provision of information by government is the lowest level of public participation. At a minimum, members of the public need to be notified of government decisions that affect them. More involvement is required where it is important that the public understands a decision, the reasons for making it and the process by which it was reached. Still higher levels of participation are necessary where the decision-maker wants information, public reaction, issue definition, advice or consensus for a decision. Figure 1¹⁰ shows the public participation spectrum and some examples of participation purposes and methods.

At the intensive end of the spectrum, selecting either a consultative or a negotiated approach to participation is often a difficult decision although there are considerations that can be applied. A consultative approach, for example, presumes a willingness on behalf of the decision-maker to integrate the views of the public, but the degree of influence that various public perspectives have remains at the discretion of the decision-maker. A commitment to negotiation means that the decision-making efforts shift for a limited time to a negotiating group with the expectation that a consensus decision will be implemented by the decision-maker.

FIGURE 1: PUBLIC PARTICIPATION CONTINUUM



The following table presents some important considerations for the decision-

maker to canvass in selecting between the two approaches.¹¹

Considerations Which Suggest Consultation	Considerations Which Suggest Negotiation
<ul style="list-style-type: none"> • non-controversial — issue a matter of public preference which can be accommodated • straightforward (few issues affecting limited interests) • minor impact on social, economic or environmental interests • limited discretion being exercised • low public expectations for involvement • time is limited • general agreement on data • public commitment to implementation not required • interest groups unwilling to work together 	<ul style="list-style-type: none"> • controversial — decision requires balancing of competing values • complex (many issues affecting range of interests) • high impact on social, economic or environmental interests • wide discretion being exercised • high public expectations for involvement • time is available • disagreement on or gaps in data • public commitment to implementation is required • interest groups are willing to work together

One important factor in determining if a negotiation process is appropriate is the need for public commitment to the outcome. Experience suggests that a fair, representative and well-managed public negotiation will enhance the prospects for a better outcome and increase public support for the decision. Consequently, where public commitment is *required* for government to implement a decision, the benefits of a negotiated approach may outweigh the costs.

Just as public participation processes occur across a range, consultation itself ranges in intensity from passive (e.g., an opinion survey) to relatively active (e.g., a public advisory committee). Consequently, having concluded that a consultative approach is appropriate, the decision-maker has considerable latitude in determining the level of consultation required under the circumstances. The information presented above can guide the decision-maker in making these determinations.

Current Approaches to Participation

Although there is not a coordinated, consistent or integrated policy for participation in British Columbia, many agencies provide opportunities for citizens to influence land use and related resource and environmental decisions. These opportunities are described below.

Citizens of British Columbia are currently able to influence land use and related decisions both before and after the discussions are made. In addition to the right to vote, opportunities range from informal exchanges with officials to well-defined legal avenues for contributing to decision-making and for redress once decisions have been made.

Dispute Resolution

Like public participation, dispute resolution ranges from the informal to the formal. It may be as simple as bringing an outstanding concern to the attention of decision-makers for reconsideration. It may involve formal and informal internal agency review procedures or the bringing of grievances to the British Columbia Ombudsman for investigation. Or it may involve statutory appeal provisions to independent tribunals and the various remedies offered through the courts, including judicial review on the basis of the duty of administrators to proceed fairly.

It is generally preferable for citizens to participate before a decision is made, reducing the need for post-decision dispute resolution mechanisms. Nevertheless, post-decision remedies are a critical component in any system of checks and balances in a democratic society. Volume 4 in this provincial land use strategy, *Dispute Resolution*, (February 1995), concerns a comprehensive dispute resolution system for B.C. involving both preventive and adjudicative dispute resolution mechanisms.

Public Participation

Opportunities for public participation in land use and related resource and environmental decisions come from a number of sources. Provisions for participation are defined in legislation and included in resource use and development agreements. Where these occur, they generally either require or enable a decision-maker or proponent/tenure holder to provide notice or hold public hearings to give citizens a chance to comment before decisions are made on matters such as issuing rights to use resources. Examples include public advertising of a tenure or permit application to invite comment on, for example, a foreshore tenure application or a pesticide use permit application. A proponent may be responsible for placing a public advertisement notifying the public of an application to harvest

resources, as in the case of pre-harvest silvicultural prescriptions (PHSPs) in the forest industry. In some cases, the government may notify the general public or affected groups or individuals. As well, there may be a requirement for proponents to consult more broadly through forums such as open-house presentations.

Legislation pertaining to land use and resource management sometimes requires or enables the establishment of citizen advisory committees. Examples include the *Municipal Act*, which enables citizen advisory planning commissions to provide advice on issues related to local government planning functions; and the Forest Practices Code of British Columbia Act. Recent legislation has included public participation as an express objective, as in the Environmental Assessment Act.

Some opportunities for public participation may be provided in written policy or procedural guidelines, although not all agencies have developed these. The Ministry of Forests has incorporated public involvement policies in its policy manual. A set of "Public Participation Guidelines" were developed by an integrated resource planning committee and adopted for use in Land and Resource Management Planning processes. The Ministry of Environment, Lands and Parks recently published a procedures manual (draft) entitled "A Public Involvement Handbook" to guide its public participation initiatives. In the absence of statutory requirements or written policy, agencies may nonetheless seek public participation as a standard part of policy development and program operation. Apart from the limits imposed by the availability of resources, there is nothing to stop officials from initiating public participation, and many officials have shown great innovation in doing so.

Advances in Public Participation

The trend in land use and resource management decision-making has been toward more public participation and, in particular, toward greater use of negotiated approaches. A number of recent initiatives have considerably advanced these opportunities in British Columbia and encouraged the constructive exchange of information, the development of cooperative partnerships and the building of consensus. The CORE regional land use negotiations, government's land and resource management planning (LRMP) processes, and the participation provisions of the new Environmental Assessment Act are examples of such initiatives.

The CORE regional processes were set up as multi-stakeholder, shared decision-making processes in four areas of the province: Vancouver Island, Cariboo-Chilcotin, West Kootenay-Boundary and East Kootenay regions. These regional processes provided an opportunity for representatives of the full range of interests to participate directly in the decision-making process by working together to produce consensus land use recommendations using the principles of interest-based negotiation. Similarly, the LRMP processes are interagency, subregional planning processes being conducted in 12 areas of the province on the basis of collaborative, consensus-seeking approaches to participation in land use planning. The Environmental Assessment Act includes extensive provisions for public participation, including:

- establishment of a project registry of accepted applications to give the public early notice of an application; all applications, comments, recommendations and decisions are to be filed on the registry
- requirements for the project proponent to conduct information sessions and hold consultations with the public as part of the

application and project review phases of the assessment process

- approval and monitoring of public consultation programs by a project committee
- establishment of advisory committees as necessary
- prescribed periods for public comment
- opportunities for comment at independent public hearings.

Although these advances are encouraging, a comprehensive policy is needed to ensure effective public participation in land use and related resource and environmental decisions across British Columbia. This need exists because of

- inconsistency and apparent arbitrariness in many decisions related to public participation
- uncertainty about the roles, rights and responsibilities of decision-makers and the public
- uncertainty about the availability of appropriate resources and institutional support for public participation.

The following recommendations are proposed as an approach for developing a comprehensive public participation policy to address these issues.

RECOMMENDATIONS

3. That government formally adopt public participation goals as part of the package of provincial land use goals recommended in volumes 1 and 2 of this provincial land use strategy series. Appropriate goals of public participation are:

- to ensure meaningful and cost-effective participation of individuals, groups, and communities affected by decisions
- to ensure that all relevant considerations, including local information and knowledge, are integrated in decisions

- to give effect to the principles of administrative fairness
 - to offer participation processes which are appropriate to the circumstances
 - to build cooperative working relationships among sectors of the public and between the public and the government
 - to encourage the building of consensus, stability of decisions, and avoidance of disputes
 - to ensure a balance of local and provincial interests in decisions.
4. That CORE, working in consultation with the interministry policy committee, develop a cross-agency provincial policy for public participation in land use and related resource and environmental decisions, such policy to be formally adopted by government as part of the strategic land use policies recommended in volumes 1 and 2 of this series of reports. This province-wide, strategic public participation policy would:
- ensure that the goals of public participation are achieved and that the principles of decision-making are reflected
 - ensure meaningful participation of individuals and groups whose interests are affected directly or indirectly by land use and related resource and environmental decisions
 - provide criteria and guidelines for determining appropriate levels of public participation
- identify and arrange for the requirements needed to implement, administer monitor and amend the policy
 - define the roles, rights and responsibilities of decision-makers and the public
 - direct and provide guidance for ministries in developing ministry-specific public participation policies, programs, and procedures to ensure appropriate levels of participation in decision-making.
5. That the provincial strategic policy and agency policies be reviewed regularly for effectiveness and, in the case of agency policies, for conformity with the provincial policy
- the review to be conducted by the agency responsible for coordination and integration of land and resource management recommended in volumes 1 and 2 of this provincial land use strategy series, and
 - the review include an evaluation of the effectiveness of public participation policies in relation to the principles and goals and suggestions for amendments to the policies.
6. That the provincial policy, agency policies and the periodic review be written in plain language and made available to the public.

Notes to Chapter 2

- ¹ B.C. Round Table on the Environment and the Economy, *Public Involvement in Government Decision-making: Choosing the Right Model* (Victoria, 1994).
- ² See Commission on Resources and Environment, *A Sustainability Act for British Columbia, The Provincial Land Use Strategy*, Volume One, Appendix 2 (Victoria, 1994).
- ³ *Ibid.*, p. 43, recommendation #3.
- ⁴ The agencies cited for the purposes of this report include: Ministry of Environment, Lands and Parks, "A Public Involvement Handbook" (Draft), (Victoria, 1994); The B.C. Round Table on the Environment and the Economy, *Public Involvement in Government Decision Making: Choosing the Right Model*, (Victoria, 1994); Ministry of Forests, *Public Involvement Handbook*, (Victoria, 1981) and, Environment Canada, Federal Environmental Assessment Review Office, *Public Involvement: Planning and Implementing Public Involvement Programs*, (Calgary, 1988). This is meant to be a sampling of the contributions of various agencies rather than an exhaustive compilation of efforts in this regard.
- ⁵ Office of the Ombudsman, *1988 Annual Report*, (Victoria, 1989).
- ⁶ Environment Canada, *Public Involvement: Planning and Implementing Public Involvement Programs* (Calgary, 1988), p.8.
- ⁷ Ministry of Environment, Lands and Parks, *A Public Involvement Handbook* (Draft) (Victoria, 1994), p. 7.
- ⁸ B.C. Round Table on the Environment and the Economy, *Public Involvement in Government Decision-Making: Choosing the Right Model* (Victoria, 1994), p. 8.
- ⁹ *Ibid.*, p. 5.
- ¹⁰ Derived in part from Figure 1, Public Involvement Spectrum, The B.C. Round Table on the Environment and the Economy, *Public Involvement in Government Decision Making: Choosing the Right Model*, (Victoria, 1994).
- ¹¹ Derived in part from the Ministry of Forests handbook, p. 107.



APPENDIX B

HANDOUTS FOR

WORKSHOP B: TRAINING STRATEGIES



EBR PRESENTATION

WHAT'S "ADVICE AND GUIDANCE"?

- HOW TO GET RICH IN THE STOCK MARKET...
 - ... BUY LOW AND SELL HIGH!
- A FINANCIAL ADVISOR WOULD WANT TO KNOW MORE ABOUT YOUR UNIQUE SITUATION
- LET'S TALK...

CONTEXT:

"YOU'RE OUT OF MONEY, AND YOU'RE OUT OF TIME.
WHAT DO YOU DO NOW!"

(Source: The movie "SPEED")

EBR CONTEXT

WHAT DOES "TRAINING" MEAN IN THE CONTEXT OF THE EBR?

BOTH...

- INFORMATION

- AWARENESS
- UNDERSTANDING

- TRAINING

- LEARNING TO DO SOMETHING

- DIFFERENT,

- AND/OR

- DIFFERENTLY

EBR CONTEXT

TRAINING IS ONLY A PART OF IMPLEMENTATION!

- KEY IMPLEMENTATION DECISIONS/ACTIONS MUST PRECEDE TRAINING
 - SENIOR MANAGEMENT LEADERSHIP
 - DEMONSTRATED...
 - UNDERSTANDING?
 - COMMITMENT?
 - SENIOR MANAGEMENT ACTION/DECISIONS
 - DELEGATION OF ROLES AND RESPONSIBILITIES?
 - ALLOCATION OF RESOURCES?
 - PROJECT MANAGEMENT?
 - DEADLINES?
 - DELIVERABLES?
 - MONITORING?

EBR CONTEXT

HOW TO GET STARTED:

- **WAIT FOR SENIOR MANAGEMENT DIRECTION?**

(BUT THEY MIGHT NOT KNOW WHAT ACTION TO TAKE UNTIL SOMEBODY INFORMS THEM?)

- **COMMUNICATE, COMMUNICATE, COMMUNICATE**

- **THINK OF THE PROBLEM AS AN ECOLOGY, A DYNAMIC SYSTEM CONSISTING OF DIALOGUE, ACTIONS, FEEDBACK AND PROGRESS TOWARDS A GOAL.**

TRAINING STRATEGIES
for
THE EBR

June 6, 1995

WHO IS SUBJECT TO WHAT?

1) All 14 ministries - a) SEV

b) policies & Acts

2)

	Regulations	Instruments	Investigations	Reviews
MCCR	*	*	*	*
MNDM	*	*	*	*
MNR	*	*	*	*
MOEE	*	*	*	*
MMA	*	*		*
OMAFRA				*

MINISTER'S LEGAL OBLIGATIONS

- 1) SEV - Minister to ensure it is considered
- 2) Proposals for policies and Acts
 - Minister to give public opportunity to comment
 - Minister to consider public's comments
 - Minister to give notice of decision
- 3) Proposals for regulations
 - same as for policies and Acts
- 4) Investigations
 - Minister to determine if necessary
- 5) Reviews
 - Minister to determine if warranted

TYPES OF TRAINING

1) awareness - Act & SEV

2) administrative processes

- components of the Act
- legal obligations
- WHO & WHAT?

FULFILLING LEGAL OBLIGATIONS

- delegation
- structure
- processes

PART II: PUBLIC PARTICIPATION

PROPOSALS for POLICIES

Policy

"a program, plan or objective and includes guidelines or criteria to be used in making decisions about the issuance, amendment or revocation of instruments but does not include an Act, a regulation or an instrument"

Who develops policy?

- division
- branch
- scattered within ministry

What is the existing approval process?

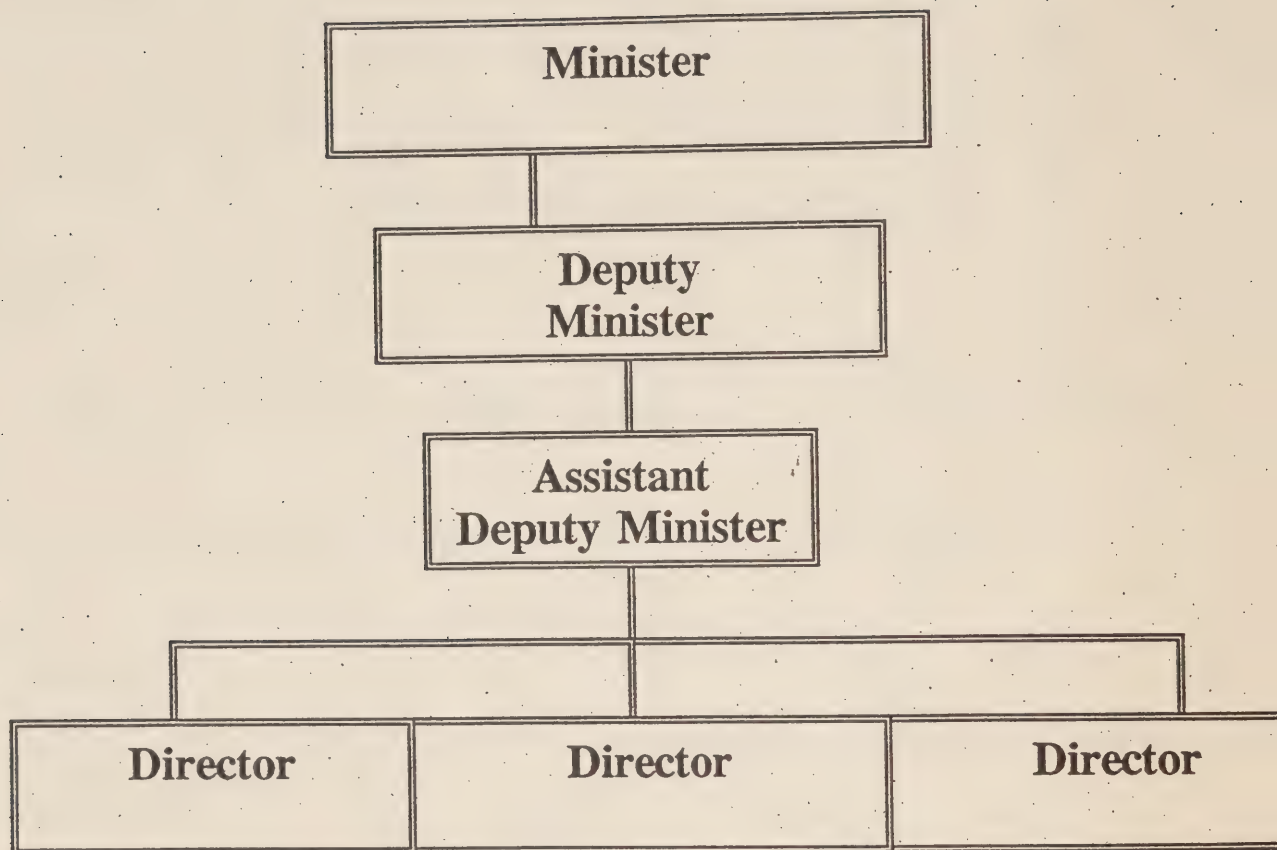
- where are the sign-offs

Who has delegated authority under EBR?

- Minister retains
- delegated - where do they fit in the existing process?

EBR process

- integrated?
- add-on?



STRATEGIC ADVICE

1) Senior level buy in

2) Manuals

3) Trainers

4) Resource person



APPENDIX C

HANDOUTS FOR

WORKSHOP C: TRACKING, MONITORING AND REPORTING

57. In addition to fulfilling his or her other duties under this Act, it is the function of the Environmental Commissioner to,

- (a) review the implementation of this Act and compliance in ministries with the requirements of this Act;
- (b) at the request of a minister, provide guidance to the ministry on how to comply with the requirements of this Act, including guidance on,
 - (i) how to develop a ministry statement of environmental values that complies with the requirements of this Act and is consistent with other ministry statements of environmental values, and
 - (ii) how to ensure that the ministry statement of environmental values is considered whenever decisions that might significantly affect the environment are made in the ministry;
- (c) at the request of a minister, assist the ministry in providing educational programs about this Act;
- (d) provide educational programs about this Act to the public;
- (e) provide advice and assistance to members of the public who wish to participate in decision-making about a proposal as provided in this Act;
- (f) review the use of the registry;
- (g) review the exercise of discretion by ministers under this Act;
- (h) review recourse to the rights provided in sections 38 to 47;
- (i) review the receipt, handling and disposition of applications for review under Part IV and applications for investigation under Part V;
- (j) review ministry plans and priorities for conducting reviews under Part IV;
- (k) review the use of the right of action set out in section 84, the use of defences set out in section 85, and reliance on section 103 respecting public nuisance actions; and
- (l) review recourse to the procedure under Part VII for complaints about employer reprisals.

58.—(1) The Environmental Commissioner shall report annually to the Speaker of the Assembly who shall lay the report before the Assembly as soon as reasonably possible.

(2) The annual report shall include,

- (a) a report on the work of the Environmental Commissioner and on whether the ministries affected by this Act have co-operated with requests by the Commissioner for information;
- (b) a summary of the information gathered by the Environmental Commissioner as a result of performing the functions set out in section 57 including, for greater certainty, a summary of information about compliance with ministry statements of environmental values gathered as a result of the review carried out under clause 57 (a);
- (c) a list of all proposals of which notice has been given under section 15, 16 or 22 during the period covered by the report but not under section 36 in the same period;
- (d) any information prescribed by the regulations under this Act; and
- (e) any information that the Environmental Commissioner considers appropriate.

(3) The first report under subsection (1) shall be submitted in the first half of 1996 and shall cover the period beginning on the day this Act receives Royal Assent and ending on December 31st, 1995.

(4) The Environmental Commissioner may make a special report to the Speaker of the Assembly at any time on any matter related to this Act that, in the opinion of the Commissioner, should not be deferred until the annual report, and the Speaker shall lay the report before the Assembly as soon as reasonably possible.

(5) If the Environmental Commissioner considers that a minister has failed to comply with section 7, 8 or 9 respecting a ministry statement of environmental values, the Commissioner shall, as soon as reasonably possible, report to the Speaker of the Assembly who shall lay the report before the Assembly as soon as reasonably possible.



APPENDIX D

HANDOUTS FOR

WORKSHOP D: WHAT IS AN ENVIRONMENTALLY SIGNIFICANT DECISION?



GUIDELINES FOR ASSESSING THE ENVIRONMENTAL SIGNIFICANCE OF A POLICY, ACT REGULATION OR INSTRUMENT

INTRODUCTION: The use of these guidelines is restricted to the determination of Environmental Significance in "policy" as it is defined in the EBR (Act). The guidelines are intended to provide a process for arriving at a decision point as to whether the proposal under review "might significantly affect the environment". Environmental significance must be determined by each of the 14 ministries prescribed under the Act given their mandate, legislative and regulatory framework.

Each Ministry must decide the policies to which the EBR applies in their Ministry and how the proposal supports their statement of Environmental values (specified on page 22 of guidelines for Cabinet Submission proposals).

As each of the categories for the determination of environmental significance is a continuum, e.g. public, private or government interest, impact and consequences, and that geographic extent may be local, regional or provincial, it is impossible to point to a single determinant as constituting a significant effect on the environment.

Environmental Significance integrated with social, economic and scientific considerations will lead a ministry to determine what level of public participation is required. If a proposal is determined to significantly affect the natural environment the minimum public participation is the posting of the proposal on the Environmental registry (ER) for public comment.

PART A of these guidelines consists of the 8 purposes of the Act which have been transformed into questions. These questions should be used as an aid to determine if the proposal will be deemed to have an environmental impact. Any proposal with an environmental impact must then be assessed using the factors in **PART B** before the impact can be deemed "significant" for the purposes of compliance with the EBR. Although the EBR sets out to protect the environment and the criteria in these guidelines is primarily to capture aspects detrimental to the environment, ministries must be aware that impacts may be positive for the environment and are to be included.

PART A - ASSESSMENT OF THE ENVIRONMENTAL IMPACT OF A PROPOSAL

A ministry in reviewing a proposal must determine if there is an impact on the environment. The EBR sets out eight purpose statements (section 2 (1,2)) which identify conditions to be met if the purposes of the Act are to be supported. The ministry's SEV may set out additional conditions. Therefore, a ministry in reviewing a proposal must determine the following:

Section 2 (1)

- (1) Does the proposal affect the purpose of the EBR to protect, conserve and where reasonable, restore the integrity of the environment? Yes / No/ Neutral/ Don't Know
- (2) Does the proposal affect the purpose of the EBR to provide sustainability of the environment? Yes / No/ Neutral/ Don't Know
- (3) Does the proposal affect the purpose of the EBR to protect the right to a healthful environment? Yes / No/ Neutral /Don't Know

Section 2 (2)

- (4) Is the proposal free from the production or release of pollutants? Yes / No/ Neutral/ Don't Know
If no, are the pollutants an unreasonable threat to the integrity of the environment?
- (5) Will the proposal affect the purpose of the EBR to protect and conserve biological, ecological and genetic diversity? Yes/ No/ Neutral/ Don't Know
- (6) Will the proposal affect the purpose of the EBR to protect natural resources, plant life, animal life and/or ecological systems? Yes / No/ Neutral/ Don't Know
- (7) Does the proposal affect the purpose of the EBR to encourage the wise management of our natural resources, including plant life, animal life and ecological systems? Yes /No/ Neutral/ Don't Know
- (8) In reviewing the proposal, have you identified; ecologically sensitive areas or processes which might be affected by the proposal? Yes / No

PART B - FACTORS TO BE CONSIDERED IN ASSESSING THE SIGNIFICANCE OF THE ENVIRONMENTAL IMPACT OF A PROPOSAL:

Consideration of the following factors will provide helpful information which can then be used to come to a decision on the significance of an environmental impact. These factors are provided as an aid and are not exhaustive.

1. Geographic Extent: In all categories each ministry must consider the geographic extent of the environmental impact as to whether it is Local, Regional or Provincial (EBR section 14). The definition of each is defined in the EBR Task Force report as being: Local (immediate neighbourhood); Regional (municipality, one or more); Provincial (beyond municipalities).

2 Degree of Impact: What degree of impact will the proposal have? The following impact parameters should be applied throughout PARTS A, B, and C.

- . positive / negative
- . frequency of occurrence
- . direct/ indirect
- . timing/seasonality of occurrence
- . duration
- . baseline conditions (change from)
- . residual
- . cumulative
- . reversible
- . probability of occurrence

3. Type of Impact:

3.1. LAND: surface; sub-surface; quality; sustainability

BIOPHYSICAL PROCESSES:

- . flooding
- . erosion/sedimentation
- . slope stability
- . soil compaction
- . eutrophication
- . food chains
- . run off
- . rare ecosystems or landforms
- . other (e.g. chemical or biochemical)

3.2. WATER: (apply parameters of biophysical processes listed above)

- . surface
- . ground
- . quality
- . aquifer recharge
- . purpose
- . fish and animal life

3.3. AIR

- . quality (fall out; dust migration)
- . discharge (into) . birds
- . noise levels . other animal life

3.4. Animal Life: (Includes mammals, birds, amphibians [frogs,toads, salamander] and reptiles [turtles])

- . fish habitat . spawning areas
- . migration routes . endangered species
- . animal life habitat . animal life corridors
- . other (e.g. water fowl)

3.5. Plant Life:

- . quality . regeneration
- . sustainability . endangered species
- . rare ecosystems

4. EXTENT AND NATURE OF MITIGATION

- . Can the impact be mitigated by any known and easily applied method?
- . Is there any aspect of the impact that cannot be fully identified and therefore not mitigated?
- . How effective is the mitigation
- . Do the costs associated with mitigation make it feasible?
- . What is the extent of any residual effect after mitigation?
- . Does the mitigation itself, have an adverse effect on the natural environment?

PART C. NATURE OF (Private/Public/ Government) INTEREST This section is meant to assist those reviewing policies for environmental significance to determine the extent of interest in the proposal. It should lead reviewers to what type and extent public participation should be involved. It is a reminder that under section 17 (as well as other sections of the Act), a minister may expand public participation in extent and time, depending on the nature of the proposal.

. Type (e.g. economic, commercial, industrial, government, interest group, social etc.).

. Degree (nobody/ individuals/ organization/ interest groups/ government etc.).

. Reason (e.g. motivation for interest: NIMBY, political, to affect land values, to promote the concerns of other non-environmental interests etc.).

References: The EBR Task Force Report

The EBR Act

Guidelines on Project Screening MOEE February 1986

MNR small scale projects Class EA Environmental Analysis

USEFUL QUESTIONS

The following questions may be found to be useful in triggering thoughts or aspects of a proposal which might otherwise not readily come to mind. Ministries may have or may generate further useful questions which can be added to make the list more comprehensive.

1. Does the proposal conflict with provincial environmental goals, objectives, plans, standards, criteria or guidelines where the proposal or undertaking is located?
2. Does the proposal have an effect on any unique, rare or endangered species, habitat or physical feature of the environment?
3. Does the proposal create a nuisance that may cause harmful environmental effects?
4. Does the proposal necessitate the irreversible commitment of any significant amount of non-renewable resources?
5. Does the proposal pre-empt the use, or potential use, of a significant renewable natural resource for any other purpose?
6. Does the proposal result in a measurable and significant detrimental effect on air or water quality, or on ambient noise levels for adjoining areas?
7. Does the proposal which impacts on the natural environment, adversely affect human health?

ENVIRONMENTAL BILL OF RIGHTS

S. O. 1993, C. 28

Proclaimed in Force - February 15, 1994.

Extracts on

**Environmental Significance and the mandate of the
Environmental Commissioner**

prepared by

Environmental Commissioner of Ontario

June 1995

Environmental Significance and the Mandate of the Environmental Commissioner

Extracts prepared by the ECO

Purposes of Act

2. (1) The purposes of this Act are,
- (a) to protect, conserve and, where reasonable, restore the integrity of the environment by the means provided in this Act;
 - (b) to provide sustainability of the environment by the means provided in this Act; and
 - (c) to protect the right to a healthful environment by the means provided in this Act.

Same - purposes include

2. (2) The purposes set out in subsection (1) include the following:
- 1. The prevention, reduction and elimination of the use, generation and release of pollutants that are an unreasonable threat to the integrity of the environment.
 - 2. The protection and conservation of biological, ecological and genetic diversity.
 - 3. The protection and conservation of natural resources, including plant life, animal life and ecological systems.
 - 4. The encouragement of the wise management of our natural resources, including plant life, animal life and ecological systems.
 - 5. The identification, protection and conservation of ecologically sensitive areas or processes.

Same - provisions in order to fulfil purposes

2. (3) In order to fulfil the purposes set out in subsections (1) and (2), this Act provides,
- (a) **means by which residents of Ontario may participate in the making of environmentally significant decisions by the Government of Ontario;**
 - (b) increased accountability of the Government of Ontario for its environmental decision-making;
 - (c) increased access to the courts by residents of Ontario for the protection of the environment; and
 - (d) enhanced protection for employees who take action in respect of environmental harm.

Part II: Public Participation in Government Decision-Making

Purpose of Part II

3. This Part sets out minimum levels of public participation that must be met before the Government of Ontario makes decisions on certain kinds of **environmentally significant** proposals for policies, Acts, regulations and instruments.

Ministry statement of environmental values

7. Within three months after the date on which this section begins to apply to a ministry, the minister shall prepare a draft ministry statement of environmental values that,
 - (a) **explains how the purposes of this Act are to be applied when decisions that might significantly affect the environment are made in the ministry; and**
 - (b) explains how consideration of the purposes of this Act should be integrated with other considerations, including social, economic and scientific considerations, that are part of decision-making in the ministry.

Effect of statement

11. The minister shall take every reasonable step to ensure that the ministry statement of environmental values is considered **whenever decisions that might significantly affect the environment are made in the ministry.**

Significant Environmental Effects in Proposals for New Acts, Policies and Regulations

Factors in determining effect of proposal for an Act, policy or regulation on environment

14. In determining, under section 15 or 16, **whether a proposal for a policy, Act or regulation could, if implemented, have a significant effect on the environment, a minister shall consider the following factors:**
1. The extent and nature of the measures that might be required to mitigate or prevent any harm to the environment that could result from a decision whether or not to implement the proposal.
 2. The geographic extent, whether local, regional or provincial, of any harm to the environment that could result from a decision whether or not to implement the proposal.
 3. The nature of the private and public interests, including governmental interests, involved in the decision whether or not to implement the proposal.
 4. Any other matter that the minister considers relevant.
15. (1) If a minister considers that **a proposal under consideration in his or her ministry for a policy or Act could, if implemented, have a significant effect on the environment**, and the minister considers that the public should have an opportunity to comment on the proposal before implementation, the minister shall do everything in his or her power to give notice of the proposal to the public at least thirty days before the proposal is implemented.

Proposals for regulations

16. (1) If a minister considers that a proposal under consideration in his or her ministry for a regulation under a prescribed Act could, if implemented, have a significant effect on the environment, the minister shall do everything in his or her power to give notice of the proposal to the public at least thirty days before the proposal is implemented.

CLASSIFYING PROPOSALS FOR INSTRUMENTS

Minister to develop regulation to classify instrument proposals

19. Within a reasonable time after this section begins to apply to a ministry, the minister for the ministry shall prepare a proposal for a regulation to classify proposals for instruments as Class I, II or III proposals for the purposes of this Act and the regulations under it.

Interpretation

20. (1) In this section, "**implementation decision**" means a decision whether or not to implement a proposal for an instrument.

Steps to develop regulation to classify instrument proposals

20. (2) In developing a proposal under section 19 for a regulation to classify proposals for instruments as Class I, II or III proposals, the minister shall take the following steps:
20. (2) 1. Review all Acts prescribed for the purposes of section 16 and administered by the minister for the ministry and list all provisions of those Acts that permit implementation decisions to be made.
20. (2) 2. Exclude from the list compiled in step 1 all provisions that permit implementation decisions to be made on review of or appeal from an earlier implementation decision made under an Act.
20. (2) 3. Consider each provision remaining on the list after step 2 to identify the provisions under which an implementation decision could be made that could have a **significant effect on the environment**.
20. (2) 4. Consider each provision identified in step 3 and identify and describe each type of proposal for an instrument about which an implementation decision could be made under the provision that the minister considers should be classified as a Class I, II or III type of proposal because of the potential for implementation decisions about proposals of that type to have a **significant effect on the environment**.

20. (2) 5. In determining whether a decision could have a **significant effect on the environment** for the purposes of steps 3 and 4, consider,
- i. the extent and nature of the measures that might be required to mitigate or prevent any harm to the environment that could result from the decision,
 - ii. the geographic extent, whether local, regional or provincial, of any harm to the environment that could result from the decision,
 - iii. the nature of the private and public interests, including governmental interests, involved in the decision, and
 - iv. any other matter that the minister considers relevant.
20. (2) 6. Classify each type of proposal for an instrument identified in step 4 as a Class I, II or III type of proposal, in accordance with steps 7 to 10.
20. (2) 7. Classify a type of proposal as a Class II type of proposal if the minister considers that the public notice and public participation requirements of sections 23 to 25 ought to apply to it because of the level of risk and extent of potential harm to the environment involved.
20. (2) 8. Classify a type of proposal as a Class II type of proposal if an Act provides for the exercise of discretion on whether a hearing should be held before an implementation decision is made on a proposal of the type, but does not require the hearing to be held if the discretion is not exercised.
20. (2) 9. Classify a type of proposal as a Class III type of proposal if an Act requires hearings to be held to determine whether or not proposals of the type should be implemented, even if the Act provides for the exercise of discretion not to hold a hearing.
20. (2) 10. Classify a type of proposal for an instrument as a Class I type of proposal if it has not been classified as a Class II or III type of proposal in steps 7 to 9.

20. (2) 11. Prepare a proposal for a regulation that would classify proposals of each type identified in step 4 as Class I, II or III proposals in accordance with steps 7 to 10.

Exception

22. (3) Despite subsection (1), the minister need not give notice of a proposal to amend or revoke an instrument if the minister considers that the potential effect of the amendment or revocation on the environment is insignificant.

Exception: other processes

30. (1) Sections 15, 16 and 22 do not apply where, in the minister's opinion, the **environmentally significant aspects** of a proposal for a policy, Act, regulation or instrument,
- (a) have already been considered in a process of public participation, under this Act, under another Act or otherwise, that was substantially equivalent to the process required in relation to the proposal under this Act; or
 - (b) are required to be considered in a process of public participation under another Act that is substantially equivalent to the process required in relation to the proposal under this Act.

Functions

57. In addition to fulfilling his or her other duties under this Act, it is the function of the Environmental Commissioner to,
- (a) review the implementation of this Act and compliance in ministries with the requirements of this Act;
 - (b) at the request of a minister, provide guidance to the ministry on how to comply with the requirements of this Act, including guidance on,
 - (i) how to develop a ministry statement of environmental values that complies with the requirements of this Act and is consistent with other ministry statements of environmental values, and
 - (ii) how to ensure that the ministry statement of environmental values is considered whenever decisions that might **significantly affect the environment** are made in the ministry;
 - (c) at the request of a minister, assist the ministry in providing educational programs about this Act;
 - (d) provide educational programs about this Act to the public;
 - (e) provide advice and assistance to members of the public who wish to participate in decision-making about a proposal as provided in this Act;
 - (f) review the use of the registry;
 - (g) review the exercise of discretion by ministers under this Act;
 - (h) review recourse to the rights provided in sections 38 to 47;
 - (i) review the receipt, handling and disposition of applications for review under Part IV and applications for investigation under Part V;
 - (j) review ministry plans and priorities for conducting reviews under Part IV;

- (k) review the use of the right of action set out in section 84, the use of defences set out in section 85, and reliance on section 103 respecting public nuisance actions; and
- (l) review recourse to the procedure under Part VII for complaints about employer reprisals.

June 5, 1995

Definitions and Terms -- Environmental Significance Workshop

Prepared by the Office of Environmental Commissioner of Ontario (ECO)

1. Background

These definitions are offered to assist workshop participants in their understanding of the relevant sections of the Act. In particular, it should be noted that the ECO does not endorse any of the dictionary definitions cited below or the definition of "significantly affecting" developed for application to the environmental assessment process in the United States.

The central test in the legislation with respect to proposals for policies, Acts and regulations is whether these proposals will have **"a significant effect on the environment."** (s. 14), [Emphasis added]

Similarly, section 7 of the *EBR* requires a minister subject to the Act to prepare a ministry statement of environmental values that **"explains how the purposes of this Act are to be applied when decisions that might significantly affect the environment are made in the ministry"**. [Emphasis added]

Section 11 states that "the minister shall take every reasonable step to ensure that the ministry statement of environmental values is considered **whenever decisions that might significantly affect the environment are made in the ministry**". [Emphasis added]

2. Definitions from the *Environmental Bill of Rights*

"environment"

The *EBR* defines "environment", "air", "land" and "water" as follows:

"environment" means the air, land, water, plant life, animal life and ecological systems of Ontario;

"air" means open air not enclosed in a building, structure, machine, chimney, stack or flue;

"land" means surface land not enclosed in a building, land covered by water (which, for greater certainty, includes wetland) and all subsoil;

"water" means surface water and ground water.

Additional insight about the intent of the Legislators with respect to interpretation of the concept of environment in the *EBR* is provided in subsections 2(1) and (2).

3. Other Relevant Definitions

The following terms are not defined in the *EBR*, but are defined in various dictionaries, as follows:

"affect"

Black's Law Dictionary, 5th Edition defines the verb "affect" as follows:

to act upon; influence; change; enlarge or abridge; often used in the sense of acting injuriously upon persons or things.

The Dictionary of Canadian Law defines the verb "affect" as follows:

to act upon; to influence.

"effect", "effects"

Black's Law Dictionary, 5th Edition defines the noun "effect" as follows:

that which is produced by an agent or cause; result; outcome; consequence ...

The Concise Oxford English Dictionary, 7th Edition defines "effect" as follows:

1. result, consequence, having that result or implication (as in "to that effect");
2. property (as in "personal effects");
3. etc.

"Provincially Significant Species"

Numerous Ontario government documents refer to provincially or regionally significant species in classifying animal or plant life.

Provincially significant animals or plants are usually defined to include a species that is considered rare because it is a relict, at the limits of its range, occurs in low numbers over a wide area, occurs in a small area but is common locally, or is considered threatened. A list of provincially significant animal species is contained in various

studies that have been prepared for the provincial and/or federal government (s).¹ Similarly, those plants designated as provincially significant species are outlined in provincial publications such as the *Atlas of the Rare Vascular Plants of Ontario*.

"Regionally Significant Species"

Regional significance of plant and animal species is usually based on the same criteria as outlined above for provincially significant species, but on a more regional or local level. These species may be regionally rare or uncommon, but quite common in other parts of the province.

"significant"

The *Concise Oxford English Dictionary, 7th Edition* defines the adjective "significant" as follows:

having a meaning; expressive, suggestive, with unstated or secret sense, inviting attention; noteworthy, of considerable amount or effect or importance; not insignificant or negligible.

"significantly affecting"

The first North American law to use these terms was the *National Environmental Policy Act (NEPA)* developed by the US federal government in the late 1960s.

Clause c of sub-section 102(2) of the *NEPA* states that:

all agencies of the federal government shall... include in every recommendation or report on proposals for legislation and other major federal actions **significantly affecting the quality of the human environment**, a detailed statement... on

- 1) the environmental impact;
- 2) adverse environmental effects which cannot be avoided...;
- 3) the alternatives to the proposed uses;
- 4) the relationship between local, short term uses and long-term productivity; and

1. See, for example, Canada/Ontario Steering Committee on Wetland Evaluation, Environment Canada and the Ontario Ministry of Natural Resources, *An Evaluation System for Wetlands of the Ontario South of the Precambrian Shield* (1984). Toronto: Environment Canada and the Ontario Ministry of Natural Resources.

5) any irreversible and irretrievable commitments of resources [Emphasis added].

The US Council on Environmental Quality's *Guidelines for Statements on Proposed Federal Actions Affecting the Environment*² related to NEPA offered the following "clarification" on environmental significance in sub-section 5(b):

The statutory clause "major Federal actions significantly affecting the quality of the human environment" is to be construed by agencies with a view to the overall, cumulative impact of the proposed (and of further actions contemplated.) Such actions may be localized in their impact, but if there is potential that the environment may be significantly affected, the statement is to be prepared. Proposed actions, the environmental impact of which is likely to be highly controversial, should be covered in all cases. In considering what constitutes major action significantly affecting the environment, agencies should bear in mind that the effect of many Federal decisions about a project or a complex of projects can be individually limited but cumulatively considerable.

The *Guidelines* went on to state in sub-section 5(c) that

significant effects include those that degrade the quality of the environment, curtail the range of beneficial uses of the environment, and serve short-term, to the disadvantage of long-term, environmental goals. Significant effects can also include actions which have both beneficial and detrimental effects, even if, on balance the agency believes that the effect will be beneficial. Significant adverse effects on the quality of the human environment include those that directly affect human beings and those that indirectly affect human beings through adverse effects on the environment.

t:\david\envsign.def

2. US Council on Environmental Quality, *Guidelines for Statements on Proposed Federal Actions Affecting the Environment*, 36 Fed. Reg. 7724-29 (April 23, 1971) ELR 460449. These were amended in May 1973: see 38 Fed. Reg. 10856 (May 2, 1973).

June 5, 1995

A Proposed Decision Tree for the Assessment and Evaluation of Potential Significant Environmental Effects of Policies, Acts and Regulations

Prepared by
Office of the Environmental Commissioner of Ontario

Outlined in Figure 1 on the attached sheets is the Office of the Environmental Commissioner of Ontario's (ECO) "Proposed Decision Tree for Assessing Environmental Significance of Policies, Acts and Regulations". The ECO expects that for many ministries the number of decisions that must go through this screening process will be small so we would expect that the resource impacts will be minimal.

The recommended steps that ministry decision-makers could follow in assessing the potential environmental effects of decisions and whether these are significant are based in part on the approach that was developed by the Interministerial Committee on *EBR* Implementation (IMC). This proposed approach is offered to assist ministries in the development of traceable and objective decision systems on assessing significant environmental effects that can be reviewed and evaluated by the ECO.

Note: It is anticipated and hoped that during the next year each ministry will complete preparation of a classification system for its decisions based on the assessment process outlined below. Thus, each of the 14 ministries will have at its disposal a classification system that distinguishes between decisions with environmentally significant potential effects (e.g. waste management facility siting) and those that, as a rule, do not generate environmentally significant potential effects (e.g. standards for psychiatric patient care administration).

This approach will allow ministries to begin to develop accurate and comprehensive information about the social, economic and scientific aspects of environmentally significant decision classes. This information will be factored into the decisions that integrate and apply Statements of Environmental Values made by ministers and delegated staff as required by subsections 7(a) and 7(b) of the *EBR*.

P:\envsign.tre

Figure 1
ECO's Proposed Decision Tree for Assessing Environmental Significance
of Policies, Acts and Regulations

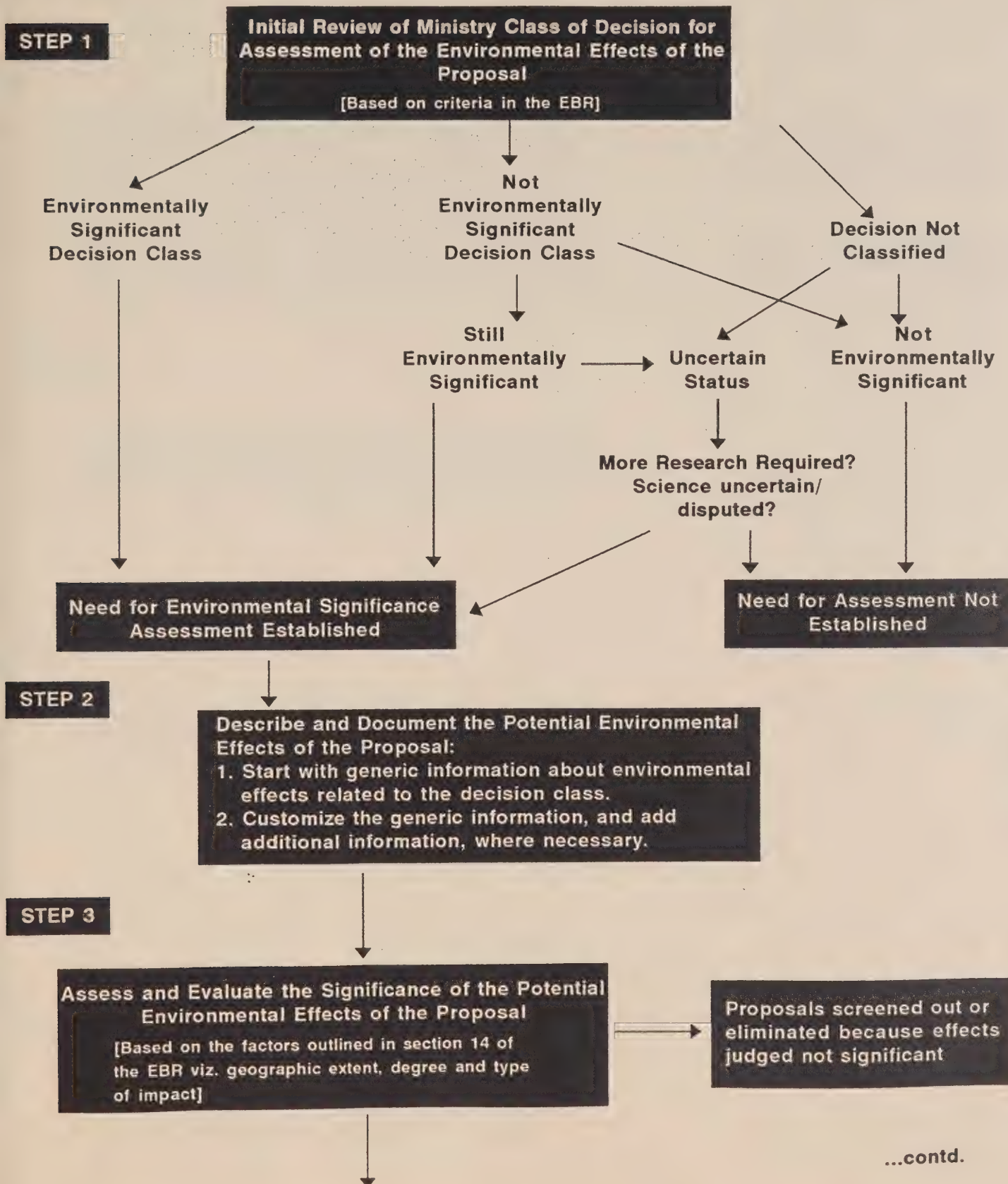


Figure 1 (continued)

ECO's Proposed Decision Tree for Assessing Environmental Significance
of Policies, Acts and Regulations

STEP 4

- a. Assess and Evaluate the Nature of the Human Interest in the Potential Significant Effects (i.e. Private, Public and Government) [Based on the type of, degree of and reason for interest]
- b. Assess and Evaluate Potential Effects of Mitigation Measures

Other Considerations
[ss. 14(4)]

Statement of
Environmental Values

STEP 5

Determination of Environmental Significance of the Proposal

Significant

Not Significant

STEP 6

Does an exception or exemption to Registry Notice apply under section 29, 30, 32 or 33?

NO

YES

Put On Registry

Not Required

STEP 7

Determination of Public Participation Required by section 17 of the EBR

Extract from: Ministry of Housing
Manual on EBR (1995)

THE EBR AND HOUSING

Env. Significance Workshop

EBR

The thrust behind the EBR is to allow for public consultation whenever the government does something that might have a significance effect on the natural environment.

The main mechanism for this a requirement for the fourteen prescribed ministries to monitor policy, acts, regulations and instruments. The most important Ontario pieces of legislation affecting the environment are prescribed under EBR. The regulations and instruments of those acts must be put on the registry for public consultation.

HOU's has no prescribed legislation. Therefore, the biggest impact on our ministry is the requirement to monitor policy. New legislation would also be subject, but this would first be monitored at the policy development stage.

Some aspects of the EBR such as the need to post instruments (permits, licences) are intended for front-line ministries, that is ministries with a major environmental component to their mandate. These are MOEE, MNR, MNDM, OMAFRA, MTO, MCTR, MMA and MBS. Other second tier ministries, such as MOL, HEALTH, FIN, MEDT and MCT along with HOU do not have a notable environmental mandate yet are prescribed under the Act. It is not expected that the second tier ministries will be formulating policy on a day-to-day basis that will have a significance effect on the environment. Nevertheless, the legislation aims to ensure that the public is consulted whenever decisions that significantly affect the environment are made. Therefore, HOU must monitor all decision making to ensure that all relevant policy decisions are brought forward for public consultation through posting on the environmental registry.

* Reproduced by Permission

POLICY

The understanding of the term "policy" for the purposes of the EBR is somewhat different than the understanding of this term as it is normally used in the Ontario government. The EBR defines policy as "a program, plan or objective" and can be understood as high level discretionary decision making.

It is this understanding which must be used for monitoring policy in the ministry. This means that policy is not limited to policy development or work done within the policy division. It applies to some work done outside policy division, such as in the area of program development.

EXCEPTIONS

The EBR itself outlines some limits, or exceptions to what is a "monitorable" policy decision. A considerable amount of HOU's day-to-day business will fall under the category of one of these exceptions.

Administrative

The EBR (s.15(2)) makes exceptions for decisions which are primarily administrative in nature. These would be administrative or "operational" decisions that are part of the process of implementing a policy decision. This implementation tends to have relatively little discretion associated with it, as the main parameters of the activity have been determined by the underlying policy decision, and in the main all that remains to be done is to implement the policy decision using commonly accepted standards and criteria. There is relatively little discretion at this stage about whether or not to do the activity or how the activity is to be carried out.

Financial

The EBR (s.15(2)) excepts policies that are "predominately financial...in nature" from the EBR's public notification requirements.

Related to Non-Prescribed Legislation

No HOU legislation is prescribed under the EBR (nor is the LTA; the *Planning Act* will be as of April 1/98). All regulatory issues relating to non-prescribed legislation are not subject to the EBR. Policy issues related to non-prescribed legislation, in so far as they do not fall within the scope of the legislation as it is presently laid out, should be considered for environmental significance.

ABCs

The EBR does not apply to agencies, boards and commissions so long as they operate separately from the Ministry of Housing. However, if the policy were being developed inside the Ministry to be applied or implemented by an agency, board or commission, the provisions of the EBR applying to the Ministry would apply to the agency, board or commission.

Policy Decisions and Significant Environmental Impact

There is no easy answer to the question of determining what policy decisions made in the ministry will have environmental significance. A considerable amount of effort will be required on the part of staff to analyze the issues surrounding any policy being considered. Simple analysis will not lead to a yes or no answer. Staff will have to exercise judgement at several points in the process before arriving at a recommendation on whether or not a proposal is environmentally significant.

There are two major steps in formulating a recommendation on environmental

significance.

The first is to determine if the proposal has an impact, good or bad, on the environment. The basis for making this assessment is laid out in the EBR itself. The Act provides eight purpose statements which outline the government's commitment in terms of protecting and maintaining the environment. The first purpose of the EBR is to protect, conserve and, where reasonable, restore the integrity of the environment by the means provided in the Act. The purposes go on to cover such issues as pollutants, protection of animal life, plant life and ecological systems.

Therefore, in order to establish if a policy proposal in the ministry is environmentally significant, the first step will be to decide if the proposal has impact on the environment according to the purposes set out in the EBR.

The second step is to determine if this impact on the environment is significant. The EBR interministerial committee has prepared a discussion paper on this issue. The guideline for establishing environmental significance being used in the ministry is based on this discussion paper. In deciding if an impact on the environment is significant, the Act requires that consideration to be given to the geographic extent of the impact, whether or not the impact can be mitigated by known and easily applied methods, and the nature of the interest (private, public, and/or government) in the impact. In addition, the guideline recommends consideration of the type of impact (on land, water, air, biophysical processes, animal life, plant life) and on the nature of impact (direct/indirect, duration, etc.). Based on these considerations, staff will be required to come a recommendation on whether or not an identified impact on the environment is or is not significant.

THE REGISTRY

The EBR requires public participation for environmentally significant proposals for policies and Acts.

The minimum public participation for proposals is notification to the Registry

of the proposal allowing the public 30 days to comment on the proposal. This requires preparation of a Registry Proposal File (RPF) which will be completed by the Environmental Coordinator (CASA). Submissions will be put on the Registry in English and French within 1-2 days of receiving the proposal from the originating ADM.

For registry requirements see Appendix 3.

DETERMINATION IF "POLICY" MUST BE PLACED ON REGISTRY

1). STAFF

STAFF PERSON DETERMINES IF THE PROPOSAL:

- 1) IS A POLICY AND GOING TO MEC, DM, OR MINISTER (if not, no further action; if yes proceed)
- 2) IS AN EXCEPTION TO THE EBR: FINANCIAL, ADMINISTRATIVE, RELATED TO NON-PREScribed LEGISLATION (if yes, no further action; if not proceed);
- 3) HAS AN ENVIRONMENTAL IMPACT

2) REPORT

if not

if yes

NO ACTION NEED BE TAKEN

SENDS RECOMMENDATION
ON ENVIRONMENTAL
SIGNIFICANCE TO ADM

ADM APPROVES

3) ADM

no

yes

ADM RETAINS REPORT ON
FILE

ADM DECIDES IF PUBLIC
CAN COMMENT

no

yes

ADM RETAINS REPORT ON
FILE

TAKES REPORT TO MEC
FOR RATIFICATION

MEC disagrees

MEC agrees

ADM RETAINS REPORT AND
MEC MINUTE

REQUIRES REGISTRY

4) REGISTRY

MEC DECIDES IF MINISTER
SHOULD EXEMPT FROM
REGISTRY

yes

no

MINISTER AGREES TO
EXEMPT

ADM RETAINS MEC
REPORT AND MINUTE

yes

no

ADM RETAINS REPORT TO
MINISTER

ADM RETAINS REPORT TO
MINISTER

PLACE REASON FOR
EXEMPTION ON REGISTRY

PLACE ON REGISTRY

GUIDELINE FOR ASSESSING THE ENVIRONMENTAL SIGNIFICANCE OF A POLICY, ACT, REGULATION OR INSTRUMENT

This guideline provides a process to help arrive at a decision as to whether a proposal "might significantly affect the environment".

Although the criteria used here primarily captures aspects detrimental to the environment, positive environmental impacts are also subject to the EBR.

PART A ASSESSMENT OF WHETHER THERE IS AN ENVIRONMENTAL IMPACT

The EBR sets out eight purpose statements (Section 2 (1,2)) which identify conditions to be met if the purposes of the Act are to be supported.

Therefore, in reviewing a proposal it must be determined if there is an impact on the environment according to the following conditions:

EBR PURPOSES

- (1) Does the proposal protect, conserve and where reasonable, restore the integrity of the natural environment?
Yes ____ No ____ NA ____
- (2) Does the proposal provide sustainability of the natural environment?
Yes ____ No ____ NA ____
- (3) Does the proposal protect the right to a healthful environment?
Yes ____ No ____ NA ____
- (4) Is the proposal free from the production or release of pollutants which are an unreasonable threat to the integrity of the environment?
No ____ NA ____ (YES=NA)
- (5) Will the proposal protect and conserve biological, ecological and genetic diversity?
Yes ____ No ____ NA ____
- (6) Will the proposal protect natural resources, plant life, animal life and/or ecological systems?
Yes ____ No ____ NA ____
- (7) Does the proposal encourage the wise management of our natural resources, including plant life, animal life and ecological systems?
Yes ____ No ____ NA ____
- (8) In reviewing the proposal, have you identified; ecologically sensitive areas or processes which might be affected by the proposal?
Yes ____ No ____ NA ____

NOTE:

The ministry's SEV sets out HOU's own environmental principles which build on the EBR purpose statements. As an aid to understanding how the purpose statements apply to our ministry, you may wish to consult HOU's SEV.

IF THE ANSWER IS **"NOT APPLICABLE"** TO ALL THE ABOVE, THE PROPOSAL WILL BE DEEMED NOT TO HAVE AN IMPACT ON THE NATURAL ENVIRONMENT; AND NO FURTHER ACTION NEED BE TAKEN.

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "YES" OR "NO" PROCEED TO **PART B** OF THE GUIDELINE.

PART B ASSESSING THE SIGNIFICANCE OF AN ENVIRONMENTAL IMPACT

PART B provides a list of factors which should be considered before determining whether an impact has environmental significance. This is not, unfortunately, a "tick off the box" type of issue. Analysis and judgment will be required in order to come to a determination of environmental significance.

These factors are provided as an aid and are not exhaustive.

Staff of the Environmental Coordinator (CASA) are available to assist you with your analysis.

1 EXTENT

The ministry must consider the geographic extent of the environmental impact as to whether it is Local, Regional or Provincial (EBR Section 14).

Describe the extent of the Impact:

2 TYPE OF IMPACT

2.1. Land

- surface
- quality
- sub-surface
- sustainability

2.2 Water

- Surface
- Quality
- Purpose
- Ground
- Aquifer Recharge
- Fish and Animal-life

2.3 Air

- Quality (fall out; dust migration)
- Discharge
- Birds
- other Animal-life

2.4. Biophysical processes:

- flooding
- slope stability
- food chains
- rare ecosystems or landforms
- other (e.g. Chemical or Biochemical)
- erosion/sedimentation
- soil compaction
- run off

2 TYPE OF IMPACT (CONT'D)

2.5 Animal Life:

- fish habitat
- migration routes
- animal life
- other (e.g. water fowl)
- spawning areas
- endangered species
- animal life corridors

2.6 Plant Life:

- quality
- sustainability
- regeneration

After considering the above factors, describe the type of the impact:

3 NATURE OF IMPACT

- positive/negative
- direct/indirect
- duration
- residual
- probability of occurrence
- baseline conditions (change to current conditions)
- frequency of occurrence
- timing/seasonality of occurrence
- reversible
- cumulative

After considering the above factors, describe the nature of the impact:

4 EXTENT AND NATURE OF MITIGATION (EBR Section 14)

Can the impact be mitigated by any known and easily applied method?

Is there any aspect of the impact that cannot be fully identified and therefore not mitigated?

How effective is the mitigation?

Do the costs associated with mitigation make it feasible?

What is the extent of any residual effect after mitigation?

Does the mitigation itself, have an adverse effect on the natural environment?

After considering the above factors, describe the extent and nature of mitigation.

5. NATURE OF INTEREST (Private/ Public/ Government) (EBR Section 14)

Type (e.g. economic, commercial, industrial, government, interest group, social etc.)

Degree (nobody/individuals/organization/interest groups/ government etc.)

Reason (e.g. motivation for interest: NIMBY, political, to affect land values, to promote the concerns of other non-environmental interests etc.)

After considering the above factors, describe the nature of interest.

6. USEFUL QUESTIONS

Does the proposal conflict with provincial environmental goals, objectives, plans, standards, criteria or guidelines where the proposal is located?

Does the proposal have an effect on any unique, rare or endangered species, habitat or physical feature of the environment?

Does the proposal create a nuisance that may cause harmful environmental effects?

Does the proposal necessitate the irreversible commitment of any significant amount of non-renewable resources?

Does the proposal pre-empt the use, or potential use, of a significant renewable natural resource for any other purpose?

Does the proposal result in a measurable and significant detrimental effect on air or water quality, or on ambient noise levels for adjoining areas?

Does the proposal which impacts on the natural environment, adversely affect human health?

Describe how impact relates to the above questions:

7. SUMMARY

BASED ON THESE FINDINGS, CHECK "YES" OR "NO" FOR THE RECOMMENDATION ON ENVIRONMENTAL SIGNIFICANCE ON THE EBR IMPACT ASSESSMENT FORM.

1. ISSUE

•

2. DATE OF CORRESPONDING BRIEFING NOTE : _____
(For related issues only one EBR Impact Assessment Form is required.)**3. POLICY/EXCEPTIONS**

Staff have determined that this issue is a policy for the purposes of the EBR and that it does not meet one of the exceptions from placement on the EBR Registry (see the Policy and Exceptions Guideline).

4. ENVIRONMENTAL IMPACT

Staff have determined that an environmental impact is applicable to this proposal.
(Please refer to PART A of the Guideline for Assessing Environmental Significance.)

5. ENVIRONMENTAL SIGNIFICANCE

Refer to Part B of the Guideline for Assessing Environmental Significance to formulate a recommendation on whether or not the impact on the environment is significant.

Recommendation on environmental significance YES___ NO___

All recommendations on environmental significance must be approved by the ADM.

Attach a completed Guideline for Assessing Environmental Significance. For "YES" recommendations a detailed Briefing Note should be completed. Contact the Environmental Coordinator (CASA) for assistance.

6. APPROVALS (Complete all sections.)

Staff _____
Manager _____
Director _____
EA _____
ADM/SA/ExCoord _____

Date: _____
Date: _____
Date: _____
Date: _____
Date: _____

7. RATIFICATION, if appropriate

MEC Ratification of Environmental Significance Date of Minute: _____

8. REGISTRY, if appropriate

Date of placement on EBR Registry: _____

ENVIRONMENTAL COORDINATOR (CASA) CONTACTS:

Pierre L'Abbé 585-7582
Elspeth Shtern 585-7391

Jennifer Bays 585-6156

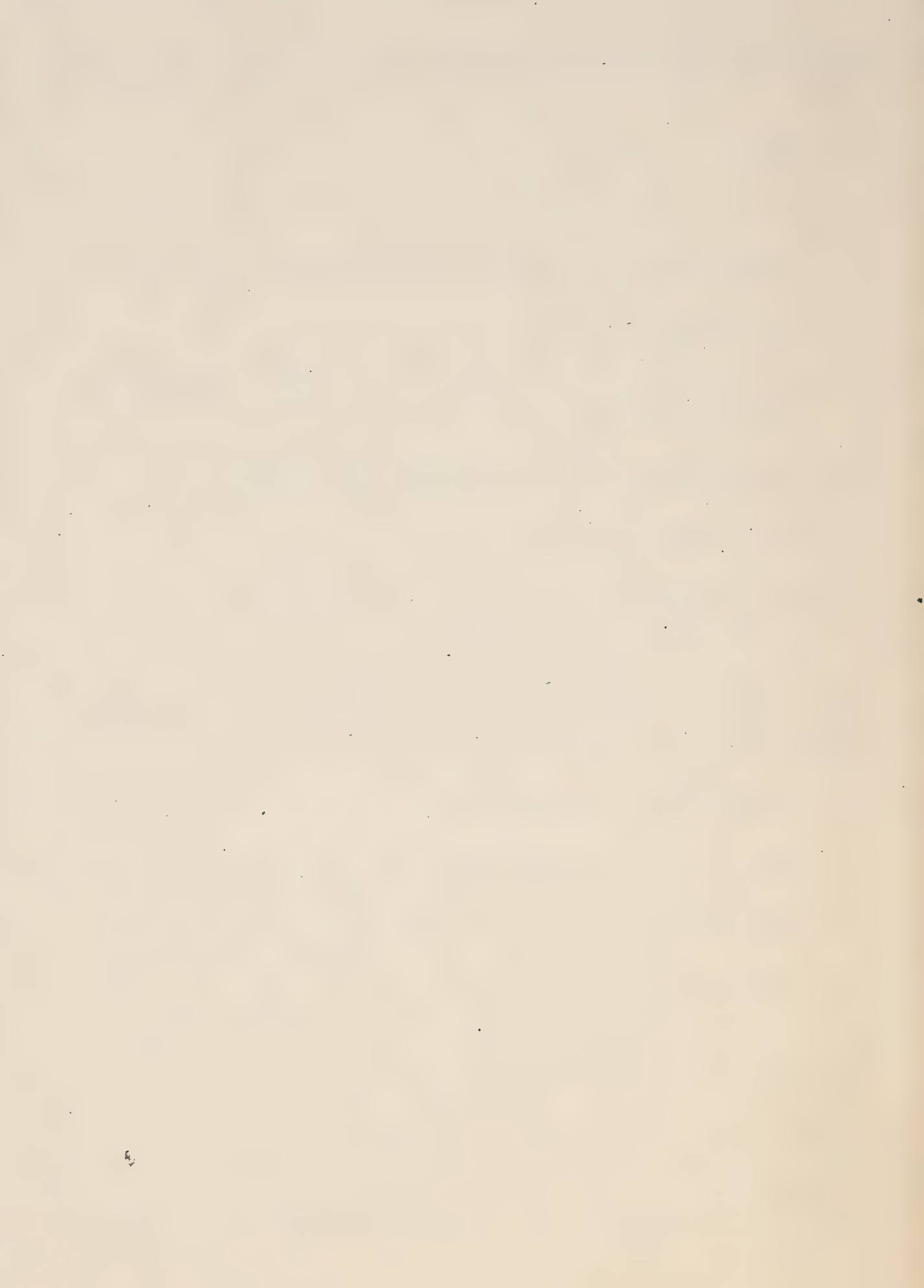


Table 1: Changes that could be significant environmental effects

Changes in the Environment that might be considered significant environmental effects	Effects on People Resulting from Environmental Changes
Effects on the health of biota, including plants, animals and fish	Effects on human health, well-being, or quality of life
Threats to rare or endangered species	Increase in unemployment or shrinkage in the economy
Reductions in species diversity or disruption of food webs	Reduction of the quality or quantity of recreational opportunities or amenities
Loss of or damage to habitats, including habitat fragmentation	Detrimental change in the current use of lands and resources for traditional purposes by aboriginal persons
Discharges or release of persistent and/or toxic chemicals, microbiological agents, nutrients (e.g., nitrogen, phosphorous), radiation or thermal energy (e.g., cooling wastewater)	Negative effects on historical, archaeological, paleontological, or architectural resources
Population declines particularly in top predator, large or long-lived species	Decreased aesthetic appeal or changes in visual amenities (e.g. views)
The removal of resource materials (e.g., peat, coal) from the environment	Loss or damage to commercial species or resources
Transformation of natural landscapes	Foreclosure of future resource use or production
Obstruction of migration or passage of wildlife	
Negative effects on the quality and/or quantity of the biophysical environment (e.g., surface water, groundwater, soil, land, and air)	

Adapted from: Canadian Environmental Assessment Agency, "Reference Guide: Determining Whether a Project is Likely to Cause Significant Adverse Environmental Effects." In: CEAA, *Responsible Authority's Guide*. Ottawa: CEAA, November 1994; pp. 185-199 at 192.



REFORMING PUBLIC POLICIES FOR SUSTAINABILITY

Economic
Forecasting
and Analysis

Human Resource
Research

Organizational
Effectiveness
Analysis

Financial Sector
Research

Tax Research

Public Affairs
Analysis

Business and
Education
Research

Business and
the Environment
Research

Public Policy
Research

International
Programs

Tourism Research

BY ALLAN HOWATSON

WHAT'S INSIDE

Environmentally sustainable economic and social development will require decision processes that are more structured than those in current use.

Scientific and economic analysis can help to make explicit the values, assumptions, uncertainties and priorities that may have been implicit.

Explicitness, in turn, clarifies the alternatives for effective political choice.

Effective political choice involves the establishment of priorities for policies affecting both the environment and the economy.

The resource constraints of Canadian governments, industries and taxpayers require a more coherent approach to policy formation.

REPORT 129-94

*Reproduced with permission from
the Conference Board of Canada.*

ABOUT THE CONFERENCE BOARD



A Conference Board of
Canada report from the
Business and Environment
Research Program

Vice-President, Public Policy
Research and Director, Business
and Environment Research
Program: Gilles Rheume

Manager: Allan Howatson

Researcher: Stelios Loizides

Visiting

Researchers: Hideo Kajima

Yong Do Lee

The author gratefully
acknowledges the support of
Industry Canada and the
members of the Business and
Environment Research Program
in the preparation of this report.

©1994 The Conference
Board of Canada*

Report 129-94

Printed in Canada

All rights reserved

ISSN 0827-1070

ISBN 0-88763-293-1

*Incorporated as AERIC Inc.

The Conference Board of Canada is an independent, not-for-profit research organization with affiliates in the United States and Europe. Our mission is to help our members anticipate and respond to the increasingly changing global economy. We do this through the development and exchange of knowledge about organizational strategies and practices, emerging economic and social trends and key public policy issues. Since 1954, the Board has been committed to researching innovative practices, designing new strategies and providing our members with the most up-to-date information, analysis and expertise to help them excel in Canada and around the world.

ABOUT THE BUSINESS AND ENVIRONMENT RESEARCH PROGRAM

In late 1989, the Board of Directors of the Conference Board approved the establishment of a separately funded research program on business and the environment. The program focuses on economic, managerial, and public policy aspects of environmental issues. A better understanding of market-based instruments for achieving environmental goals is one of its first priorities. Two other major areas of research are the management of environmental issues within organizations and issues concerning the relationship between the global environmental agenda and international competitiveness.

PREFACE

Over the past two years in Canada there have been a number of industry, government and multi-stakeholder initiatives to develop processes for setting environmental priorities. Defining and ranking environmental risks and setting priorities for reduction of these risks might usefully be seen within the broader task of reforming public policies for "sustainability"—environmentally sustainable economic and social development. This report sets out three essential tasks that will be necessary to make progress towards sustainability and offers one process for integrating these three tasks.

The Conference Board of Canada gratefully acknowledges the partial financial support for the research underlying this project provided by the Government of Canada. In keeping with Conference Board guidelines for financed research, the design and method of research as well as the content and distribution of this report were determined solely by The Conference Board of Canada.

James R. Nininger
President and Chief Executive Officer
The Conference Board of Canada
September 1994

REFORMING PUBLIC POLICIES FOR SUSTAINABILITY

CONTENTS

Introduction

page 1

The Need for Explicit

Priorities

page 4

Priority Task 1

page 5

Priority Task 2

page 9

Priority Task 3

page 12

Synthesis

page 14

Conclusion

page 15

Introduction

Everyone, it seems, favours sustainable development. Who, after all, is calling for unsustainable development? There is widespread agreement, generated over the past decade, that environmental protection and economic development are both essential to human well-being and must be pursued simultaneously. In particular, it is recognized that the costs of environmental damage must be factored into economic decisions.

Difficulties arise not so much with this general understanding of sustainable development as with applications of the concept to specific decisions. Different perspectives do exist, of course; some are discussed in the following section of this report. The question is, how are policy makers to use the various "sustainability principles" to guide them in decisions such as the following?

- A jurisdiction, in attempting to face producers and consumers with the ecological costs of their economic decisions, is considering the unilateral imposition of a "green" tax, but administrators are concerned that such a tax may adversely affect some domestic industrial sectors.
- An environment ministry wants to impose the "precautionary principle" in a specific natural resource decision, but other ministries believe that such action will contribute to the rapid decline of resource-dependent communities in the region.
- Researchers in the agricultural ministry of a developing nation are reasonably certain that a new pesticide will improve

crop yields; they recommend that it be registered for use. Ecologists in the central environmental ministry, on the other hand, suspect that detrimental ecological impacts will result from widespread use of this pesticide. Toxicological tests prove to be ambiguous. The need for improved crop yields is pressing, but the capacity to implement ecologically sound methods of integrated pest management is not yet available.

- Does this forestry project—or power generation proposal or fisheries plan or energy conservation regulation—contribute to, or detract from, environmentally sustainable economic and social development?

This report will propose that progress towards sustainability requires structured processes for clarifying political choices, as typified by the preceding examples. These processes must embody rigorous analysis, with full acknowledgement that uncertainties need to be incorporated into the decision process.¹ While analysis alone will not provide the impetus for taking difficult decisions, careful consideration of the alternatives and their expected outcomes will nevertheless promote improved results.

Over the past two years in Canada, there have been a number of industry, government and multi-stakeholder initiatives to develop processes for setting environmental priorities. Defining and ranking environmental risks and setting priorities for reduction of these risks might usefully be seen within the broader task of reforming public policies for sustainability.

¹ How rigorous need the analysis be? Many economists would recommend an informal application of cost-benefit thinking: continue to add resources to the analytical effort as long as the pay-off, in terms of better decisions (in the judgement of the decision makers), outweighs the cost of the additional resources.

In organizations facing severe resource constraints (a situation confronting many Canadian organizations in the 1990s), adding resources for the recommended analytical effort may require shifting resources from tasks that offer a lower "return on investment."

Exhibit 1:

Report Summary

Progress towards sustainability—environmentally sustainable economic and social development—will require structured processes, incorporating the best available analysis, for clarifying political choice. Scientific and economic analysis (which considers the uncertainties in the issues under consideration) will not ensure the “right” answer, for no such answer exists. Rather, the rigour imposed by such analysis makes explicit the assumptions and reasoning of decision makers that may have been implicit. Explicitness, in turn, clarifies the alternatives for effective action.

Priority Tasks

Three interdependent tasks are essential to building the structured processes needed for clarifying political choice over the next decade.

1. *Focus on cost-effective reductions of human-generated risks, borne through the natural environment, to: human health; critical life-support and ecological systems; and productive resources, natural and man-made.*

The avoidance of damage to the three end points of human health, ecosystems and productive resources is the chief concern of most Canadian citizens and organizations when “the environment” is considered. The relative weight attached to these three ends (and their subdivisions) will vary with the interests and values of the person or group.

2. *Identify and assess the major environmental side-impacts of economic policies, existing and proposed, across the range of government portfolios.*

The promotion of sustainable development in any jurisdiction will require policy changes in more agencies than the environment ministry alone. Policies in portfolios such as finance, agriculture, energy, industry, fisheries, forests, international trade and development, minerals and transport generate environmental side-impacts. These side-impacts may be either positive or negative.

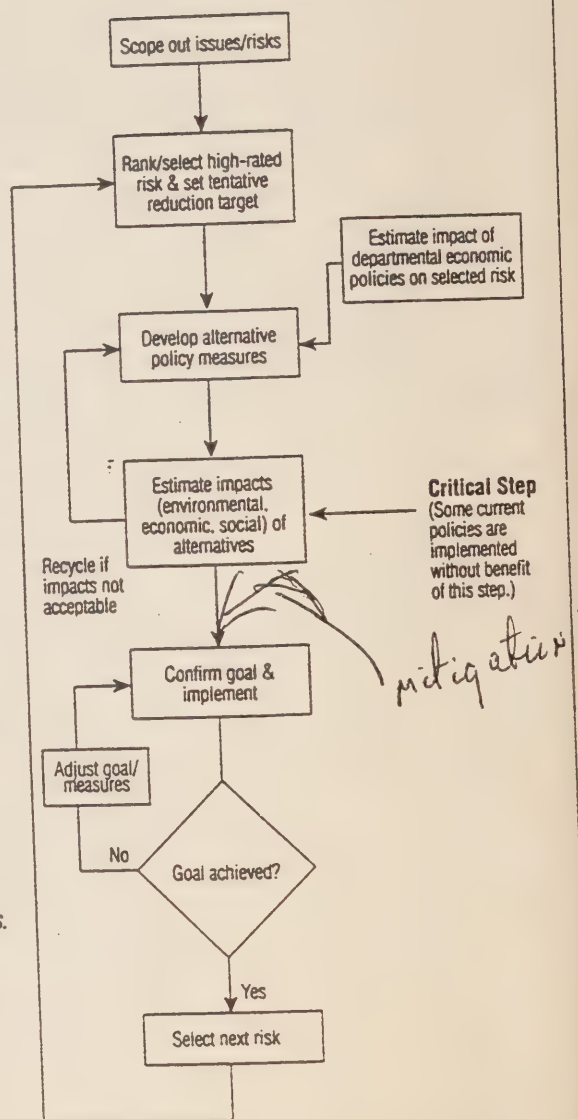
3. *Confirm goals and implement policy measures only after estimating the impacts of the alternative measures.*

Attempts to estimate the impact of alternative measures prior to implementation will contribute to more acceptable policy choices. Policy goals and measures may need to be modified in light of estimated impacts.

The flowchart at the right illustrates one process (a simplified version of Exhibit 6) for integrating these priority tasks.

Summary Flowchart (refer to Exhibit 6 for detail)

One Process to Reform Public Policies for Sustainability



Source: The Conference Board of Canada.

Environmentally sustainable development will also require assessment of the positive and negative environmental side-impacts of economic policies in portfolios such as agriculture, industry, natural resources, transport, energy, and international trade and development. Conversely, it will be necessary to estimate the economic and social impacts of policies designed to protect the environment.

Report Objectives

The objectives of this report are three-fold:

- first, to describe three essential near-term tasks required to reform Canadian public policies in the direction of environmentally sustainable development;
- second, to present one possible option for sequencing these tasks; and
- third, to list actions, concurrent but extending over the longer term, that will be necessary to improve the process of reform.

For an overview of the thesis, see Exhibit 1.

Scope of the Report

Two clarifications are necessary at the outset.

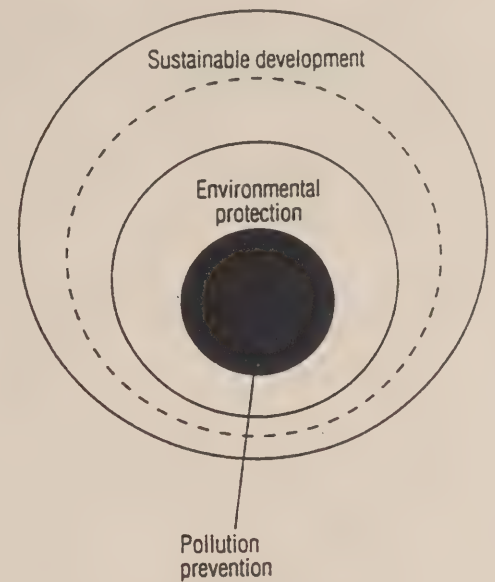
First, what is meant by the term “public policies”? In general terms, public policy refers to the official actions of governments. It generally denotes a broad set of plans and principles established at the higher levels of a government to guide the development and implementation of more detailed programs, regulations, standards and projects.

Second, what is the relationship between pollution prevention, environmental protection and sustainable development? Exhibit 2 illustrates the relationship as it is defined for purposes of this report.

Pollution prevention denotes any action or set of actions taken to prevent the release into the natural environment of substances

Exhibit 2:

The Scope of Priority Setting



Source: The Conference Board of Canada.

What is the relationship between pollution prevention, environmental protection and sustainable development?

Sustainable development may be seen through three lenses: the economic, the ecological and the sociocultural.

harmful to human health, ecosystems or productive resources, man-made or natural. Some would restrict the term to fundamental changes in production patterns, such as process redesign, or to more environmentally benign lifestyles.

Environmental protection includes pollution prevention but also extends to such activities as conservation of wildlife, maintenance of healthy stocks of fish and forests, and prevention of agricultural soils erosion.

Sustainable development, in turn, includes environmental protection but focuses upon the need to ensure that human societies and economies are compatible with a healthy environment. “Human well-being within ecosystem well-being, extending through time” broadly summarizes the meaning of sustainable development.

Sustainable development may be seen through three “lenses”: the economic, the ecological and the sociocultural.

It is becoming essential to set priorities for reducing risks to human health, ecosystems and productive resources.

The *economic concept* focuses upon bequeathing to future generations a supply of wealth (man-made and natural) at least as extensive as that enjoyed by the current generation. A broad economic concept focuses upon non-declining wealth; a narrow view considers non-declining *natural* wealth—sometimes referred to as the “constant stock of natural capital” concept.

The *ecological view* of sustainable development promotes the integrity and resilience of critical life-support and ecological systems. The protection of biological diversity, or biodiversity, is of particular importance.

The *sociocultural perspective* supports the stability of social and cultural systems, including the reduction of destructive conflicts. The elimination of poverty, the rights of future generations, the need to increase the social participation of marginalized populations, and the necessity to harness local and grass-roots participation in decision making are principal thrusts from the sociocultural view.

This report will focus upon the field within the dotted circle in Exhibit 2—the reform of public policies that bear on the interaction between environmental protection and economic development in Canada. Many activities important to sustainable development, such as the education of women in developing countries, the provision of agricultural extension services or credit to farmers in these regions, and the increased social participation of marginalized populations, are beyond the scope of the report.

The Need for Explicit Priorities

In December 1990, the Canadian federal government released its Green Plan, outlining seven major goals and more than one hundred initiatives. The current federal government is undertaking a broad review of taxes, subsidies and grants, with a view

to improving protection of the environment. Provincial and local governments have set their own environmental agendas and goals.

Concerns have been raised by Canadians regarding priorities among these initiatives. Given the limited resources of Canadian citizens, governments and industries, which objectives should be pursued first and over what time frame? What will it cost to achieve these goals, and who will bear the costs?

It is becoming essential to set priorities for reducing risks to human health, ecosystems and productive resources, since the easy gains, the “low hanging fruit,” have already been harvested in the industrialized nations over the past 25 years. Diminishing returns and increasing unit costs arising from the continued pursuit of old issues, combined with discoveries of new threats, dictate the need to allocate resources to the most pressing environmental problems.

The following are the most significant factors giving rise to the need for priority-setting:

- *The growing list of environmental concerns.* First, to such familiar issues as emissions and effluents from industrial plants may now be added more recently perceived issues, such as ozone depletion and loss of biodiversity. Second, non-point sources of pollution may now be more problematic in some areas than familiar point sources. And third, global issues, such as greenhouse gases, must be assessed along with regional concerns.
- *Government fiscal realities.* In Canada, the major provinces and the federal government all face large debts and deficits in their public accounts. Consequently, all governments will be under continuing pressure to set priorities in every major area of expenditure.

Factors giving rise to the need for priority-setting include: the growing list of environmental concerns; government fiscal realities; family real incomes; and a competitive business environment.

- • *Family real incomes.* Average inflation-adjusted family take-home pay has been stagnant in Canada over the past decade. Small increases in real income have been taxed away by governments. Already feeling the squeeze on social services such as education and health care, taxpayers may be expected to balk at environmental programs and policies that do not address what they perceive to be priority problems.
- *A competitive business environment.* Continental economic integration, within a broader context of global competition, is causing the business environment in Canada to become more stringent. Business organizations, many of which are coping with survival and downsizing issues, are concerned that environmental initiatives undertaken by different levels of government may weaken international competitiveness.

The cumulative message of these factors may be stated simply: resources will be scarce in the 1990s. Environmental issues in Canada (and many other nations as well) must compete for the limited energy and finances of governments, business and consumers. Therefore, it will be essential to ensure that resources are devoted to the highest priorities.

Progress towards sustainability will require complex decisions. Four points concerning decision making are frequently forgotten. First, behind every decision is a set of assumptions, either implicit, explicit or a combination of both. Second, all decisions involve priority setting; where priorities are not explicit, they may be inferred by examining the expenditure of key resources such as time and money. Third, every decision involves explicit or implicit valuation: Will the expected benefits from this action justify the costs incurred? And fourth, the choice for the status quo, sometimes perceived as no

decision, is in fact a decision to make no changes to the current course.

Regardless of the scope of action—pollution prevention, environmental protection or sustainable development—the question is not “Should priorities be set and questions of valuation be entertained?” These activities have already been undertaken. The real issues may be stated as follows:

- Are the priorities that guide the formation of public policies conscious and considered? Are they explicit?
- Has sufficient thought and debate, from affected and responsible quarters, gone into the establishment of priorities?
- Have alternative options for achieving established goals, and the impacts of those options, been considered before pursuing a course of action?

To build the structured processes required for clarifying political choice over the next decade, three interdependent tasks must be undertaken.

Priority Task 1

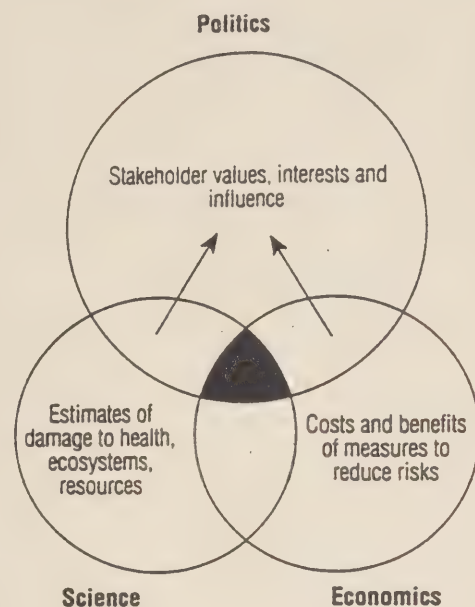
Focus on cost-effective reduction of human-generated environmental risks to human health; to critical life-support and ecological systems; and to productive resources, both natural and man-made.

This task requires input from the three arenas of politics, science and economics, as illustrated in Exhibit 3.

The Political Arena

Most Canadian citizens and organizations are ultimately concerned with the impact of environmental risks on human health, ecological well-being, and resources that provide income and pleasure. The relative weight attached to these three ends (and their subdivisions) will vary with the interests and values of the person or group. Reduction of threats that pose high risks to

Task 1 requires input from politics, science and economics.

Exhibit 3**Realms Influencing Environmental Policy**

Source: The Conference Board of Canada.

Successful group processes have saved time and money . . . but there are limits to the effectiveness of multi-stakeholder processes.

more than one end are particularly worthy of attention. For example, untreated municipal sewage emptying into a river may pose risks to human health (for drinking and swimming), ecosystems (through damage to aquatic life from bioaccumulating toxics) and productive resources (by decreasing the value of properties fronting the river).

The various stakeholder groups—*governments* (all levels and various departments, both elected representatives and public servants), *business* (different industries) and *environmental advocacy groups* (representing a wide array of interests), as well as other groups with a stake in the establishment of ends—seek to influence the outcome of policy formation. These stakeholders sometimes compete, sometimes co-operate.

Mechanisms for reducing unproductive conflicts among participants, such as multi-stakeholder groups, task forces and roundtables, have proliferated within the past decade. The value of such groups appears to depend upon two factors in particular:

- the degree to which the constituencies represented set aside their agendas in order to understand the perspectives of other participants; and
- the degree to which those at the table are able to influence decisions and their implementation.

Successful group processes have saved time and money by keeping contentious issues out of court, by building respect and friendship between former antagonists, and by broadening the perspectives of participants. But there are limits to the effectiveness of multi-stakeholder processes. First of all, once group dynamics have moved beyond the getting-to-know-you stage, progress will depend upon a suitably structured process for generating insight and understanding. Second, strength in the second factor listed in the preceding paragraph will tend to offset the first factor: those with the most power to influence decisions will be the most concerned to guard the interests of their constituencies. Third, multi-stakeholder participants may not truly represent the views or concerns of those they purport to represent. Finally, elected governments in democratic nations are both responsible and accountable for policy and its implementation. Since stakeholders know this, they will seek to influence policy outside of multi-stakeholder processes as well as within them.

The Realm of Science

Estimates of probable damage to the valued ends cannot be made confidently without a sound scientific grounding. Comparative risk analysis is an attempt to

Estimates of probable damage to the valued ends cannot be made confidently without a sound scientific grounding.

estimate, using the best data and scientific analysis available, the impact of human-generated environmental threats to human concerns and natural systems. The U.S. Environmental Protection Agency has pioneered in the application of programs to assess and reduce environmental risks. In 1993, Environment Canada undertook similar work to define and rank such risks in Canada.

It is often thought that appeal to the "scientific facts" will settle disputes. Unfortunately, there are no "bare facts." Information is selected and interpreted within a framework, which is in turn shaped by the values of those who perceive events. Even when stakeholders "agree on the facts," they may disagree on the significance of those facts because their values differ. Arguments over public policy, then, typically hinge on disagreements about values. However, values as well as facts are debated in the public square. Individuals may come to alter their values through experience and debate.

The Role of Economics

Every person is an amateur economist, since people constantly make the judgment, "Will the expected benefits from this action justify the costs incurred?" The question may not be consciously articulated, but it seems to guide much human behaviour. Economic reasoning applied to the reduction of environmental risks may be stated in this manner:

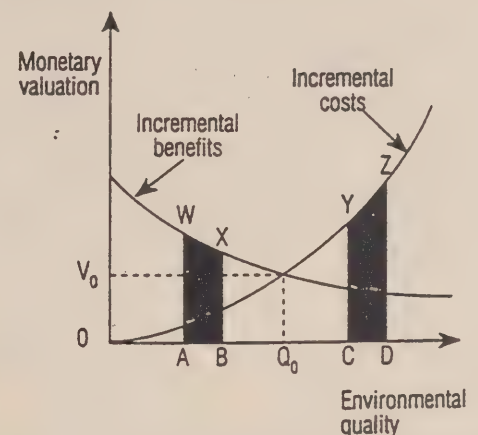
Reduce the risks of damage to human health, ecosystems, and productive resources up to the point where the declining incremental benefits from such risk reductions equal the increasing incremental costs of such actions.

Chart 1 is a simplified and hypothetical illustration of the proposed rule. Environmental quality increases as one proceeds to

the right along the horizontal axis. (Quality may be general, such as improvement by some suitable measure in total air quality, or specific, such as a reduction in NO_x/VOCs emissions). The monetary valuation of environmental benefits and costs is measured along the vertical axis. The quality—the incremental benefits curve—can be seen to be declining, as both economic theory and experience would dictate. On the other hand, the additional cost of securing each extra unit of improved quality can be seen to be increasing.

Chart 1

Costs and Benefits of Environmental Quality



Source: The Conference Board of Canada.

For the example illustrated, one can ask: should action be taken to move the quality level from A to B? The benefit from doing so is indicated by the shaded area under the benefits curve and above the horizontal axis. The cost of this move is similarly indicated by the area under the cost curve. Since the benefits clearly exceed the costs by a considerable margin, the answer to the question would be, given no other consideration, yes. By similar but converse

reasoning, action should *not* be taken to increase the quality level from C to D, since in this case costs would outweigh benefits.

Traditional economic reasoning would advise improving environmental quality up to, but no further than, Q_0 . Benefits from incremental improvements outweigh costs up to this point but are exceeded by costs beyond it. Q_0 , then, is the optimum level of environmental quality, given these hypothetical costs and benefits.

So the broader task is to find the optimal levels of environmental quality for the various effluents and emissions in each region under consideration. The task, however, is more easily stated than undertaken. While costs of abatement can usually be acquired from engineering data, benefits are more difficult to estimate.

Suppose, for example, that Chart 1 represents the costs and benefits of reducing SO_2 emissions in southern Ontario. What are the citizens of southern Ontario willing to pay to reduce levels of SO_2 from level A to level B (for that is what area ABXW is measuring)? It is unlikely that we will obtain a clear or stable answer. To be sure, economists are actively pursuing problems of this nature, refining methods of valuation. But we simply do not have enough sound information—nor are we likely to within the next few years—to estimate the hundreds (if not thousands) of incremental benefit and cost curves that would be involved in setting optimal levels of environmental quality.

Where reasonably good estimates of benefits can be made, the application of cost-benefit thinking fosters economic efficiency.² But without such information, second-best solutions often must be found.

One such solution might be called the "cost-effectiveness" rule:

Where it is difficult to estimate the benefits from risk reduction, set physical targets as "proxies" and implement measures that will achieve these environmental goals at least cost.

In other words, based on scientific studies of probable damage, set limits on the physical amounts of effluent entering a watercourse or emissions entering an airshed. Once established, find the most cost-effective way to keep emissions and effluents from exceeding these limits. The various measures that can be used to attain goals for environmental protection will be discussed under priority task 3.

Reaffirming the Rational Approach

The real influences upon public policies concerning the environment are no doubt less cerebral than those outlined above in this report. Political statements are framed in 10-second "sound bites" for the evening newscast. Scenes ripe for television cameras, such as clearcut hillsides and protesters chaining themselves to logging trucks, elicit affective rather than cognitive responses. Image and visceral appeal, it will be contended, play a far greater role in the development of policies than any rational process.

The force of this contention is acknowledged in Exhibit 3. Of the three realms described as politics, science and economics, the circle representing politics is the largest. Politics dominates. At the end of the day, it will be the competing (and co-operating) interests, values and influence of the various stakeholders that will determine the formation of public policies.

Where reasonably good estimates of benefits can be made, the application of cost-benefit thinking fosters economic efficiency.

Of the three realms described as politics, science and economics, politics dominates.

2 Issues of valuation, the discount rate and cost-benefit analysis modified with a sustainability constraint are discussed in a lucid and accessible small book entitled *Blueprint for a Green Economy*,

an examination of sustainable development from the economic perspective written in 1989 by British environmental economist David Pearce and his colleagues.

► The promotion of sustainable development will require policy changes in agencies other than the environment ministry alone.

Canadian federal and provincial initiatives in the early 1990s to regulate effluents from pulp mills illustrate the need for scientific and economic factors to be more carefully integrated into the politics of "the environment."³ The 1993 report of the Auditor General of Canada to the House of Commons is critical of the Pulp and Paper Effluent Regulations passed in May 1992 under the *Fisheries Act*. Among other criticisms, the report notes that "parliamentarians and stakeholders were not comprehensively and equally informed about key issues affecting the effectiveness and cost of the pulp and paper regulations"⁴ and cites the report of a House subcommittee that criticized the federal Department of Environment for "not assessing the benefits of the regulations. The report stated that a commitment of \$4.1 billion in resources, with no apparent sense of the magnitude of the benefits, was not reasonable."⁵ Further comments in the Auditor General's report noted that "potential overlaps with provincial pulp and paper regulations were not fully explained" and "the potential of using economic instruments was not examined."⁶

Provincially, the government of British Columbia declared in January 1992 that AOX levels in pulp mill effluent must be reduced to zero by 2002, in effect mandating the use of closed-loop pulping systems or the abolition of chlorine and its compounds for whitening of pulp.⁷ Other provinces may follow suit. However, there appears to be no environmental benefit from reducing AOX levels below 2.0–2.5 kg/tonne.⁸

The report in hand maintains that lasting progress towards sustainability will require structured processes for clarifying political choice. Scientific and economic analysis will not ensure the "right" answer, for no such answer exists. Rather, the rigour imposed by such analysis helps to make explicit the assumptions and reasoning that may have been implicit. Explicitness in turn clarifies the alternatives for effective action.

Not all effective actions require careful thought. A pedestrian stepping from a curb and seeing a car rapidly approaching needs little thought to take the effective action of stepping quickly back onto the curb. An airline pilot faced with a flight emergency may instinctively take appropriate action, responding from his years of experience. But careful thought does promote better decisions when the issues are complex, and the task of reforming public policies for sustainability is exceedingly complex. The process of reform must contend with multiple objectives, diverse interests, conflicting values, imperfect information, large uncertainties and international disparities.

Priority Task 2

Identify and assess the major environmental side-effects of economic policies, existing and proposed, across the range of government portfolios.

The promotion of sustainable development in any jurisdiction will require policy changes in agencies other than the environment ministry alone. Economic policies in portfolios such as agriculture, energy,

3 *Effluents from Pulp Mills Using Chlorine* (Ottawa: The Conference Board of Canada, 1992).

4 1993 Report of the Auditor General of Canada to the House of Commons, p. 634.

5 *Ibid.*, p. 635.

6 *Ibid.*, pp. 636, 638.

7 AOX (Adsorbable Organically bound Halogens) levels are often used as an indicator of the mass of chlorinated compounds in pulp mill effluents.

8 *Effluents from Pulp Mills Using Chlorine*.

industry, fisheries, forests, international trade and development, minerals and transport generate environmental side-impacts, which may be either positive or negative.⁹

Government operations within these agencies create environmental impacts, but these are frequently minor in comparison with the effects of behaviour induced in consumers and producers by agency policies. For example, automobiles operated by a transport department's employees contribute to a region's air pollution. However, this may be more than offset by the environmental benefit to the region's air quality created by a policy of that same transport department when it induces commuters to use public transit. Conversely, the internal costs to that transport department of complying with a new regulation may be, for example, \$3 million, but the regulation may add \$300 million in extra costs to industry and consumers.

The most common contribution to environmental damage from the sectoral economic policies of governments worldwide is the pricing of production inputs below private cost, that is, governmental or quasi-governmental agencies selling resources for less than the cost of producing them. Water, coal, electricity, fuel, fertilizer and timber, among other resources, have been subsidized by governments to promote economic development in selected regions. Consequently, more of these resources have been extracted than economic efficiency would dictate. The extraction, use and disposal of these resources have then created more environmental damage than would have existed without such subsidization.

Macroeconomic policies—monetary and fiscal measures intended to influence economy-wide levels of production, employment, inflation, interest rates and exchange rates—may also carry environmental side-impacts.

A useful initial mechanism for examining the linkages between economic policies and environmental impacts is an Economic Policy Impact Matrix (EPIM), as illustrated in Table 1. The first column lists policies and related activities; the second lists the principal objectives of these policies; and the remaining columns of the matrix indicate, in qualitative terms, the positive or negative environmental impacts in key areas of interest.

For example, the line of Table 1 beginning with "Exchange rate" illustrates the impacts when a hypothetical country deliberately depreciates its currency in order to improve its trade balance. If the country is also a major timber exporter, a depreciated currency will, other things being equal, increase foreign demand for its timber. If, further, the environmental impact of logging operations is not carefully managed, the currency depreciation may result in deforestation, leading to heavy soil erosion (indicated by the symbol "-H" in the "Land degradation" column).

The EPIM serves three purposes:

- it explicitly illustrates key linkages;
- it suggests areas for further valuation studies; and
- it complements priority tasks 1 and 3.

The historical focus of governments' central and line departments presents a major difficulty in advancing policy assessment and co-ordination across departments.

► The historical focus of governments' central and line departments presents a major difficulty in advancing policy assessment and co-ordination across departments.

9 The 1992 World Bank Development Report entitled *Development and the Environment* promotes a dual strategy: building upon the positive links between economic efficiency, income growth and environmental protection ("win-win" policies) and breaking the

negative links through targeted policies that provide incentives for producers and consumers to incorporate environmental costs into their decisions.

Table 1

Economic Policy Impact Matrix

(A few examples of typical policies and projects as well as key environmental and social issues are shown. Some illustrative but qualitative impact assessments are also indicated—thus + and – signify beneficial and harmful impacts, while H and M indicate high and moderate severity.)

Policy Actions	Main Objective of Action	Matrix of Other Impacts on Key Sustainable Development Issues			
		Land degradation	Air pollution	Water quality	Others
1. Macroeconomic and sectoral policies	Macroeconomic and sectoral improvements	Positive impacts due to removal of distortion Negative impacts mainly due to pre-existing constraints			
• Exchange rate (depreciation)	• Improve trade balance and economic growth	(–H) (deforest open-access areas)			
• Energy pricing (price increase)	• Improve economic and energy use efficiency		(+M) (improve energy efficiency)		
• Others					
2. Complementary measures	Specific or local social and environmental improvements	Enhance positive impacts and mitigate negative impacts (above) of broader macroeconomic and sectoral policies			
• Market-based	Reverse negative impacts of market failures and policy distortions		(+M) (pollution tax)		
• Non-market-based		(+H) (property rights)	(+M) (public-sector accountability)	(+H) (toxics regulations)	
3. Investment projects	Improve efficiency of investments	Investment decisions made more consistently with broader policy and institutional framework			
• Project 1 (hydro dam)	Use of project evaluation (cost–benefit analysis, environmental assessments, multi-criteria analysis, etc.)	(–H) (inundation)	(+M) (reduces air pollution)		
• Project 2 (re-afforestation)		(+M) (soil erosion)		(+M) (soil erosion)	
• Project N					

Officials in these agencies, together with their ministers and industrial clients, may resist being "greened."

Ministries of agriculture, transport, energy, industry and natural resources have traditionally assisted, as well as regulated, industries within their mandates. Central agencies responsible for public expenditure and macroeconomic policy focus on the overall management of the economy and government operations. Officials in these agencies, together with their ministers and industrial clients, may resist being "greened." The necessary policy assessment and co-ordination will probably require a new facility at the highest levels of policy formation.

Priority Task 3

Confirm goals and implement policy measures only after estimating the impacts of the alternative measures.

Goals, in this report, denote measurable, time-bound targets for the reduction of specific environmental risks ranked in priority task 1.

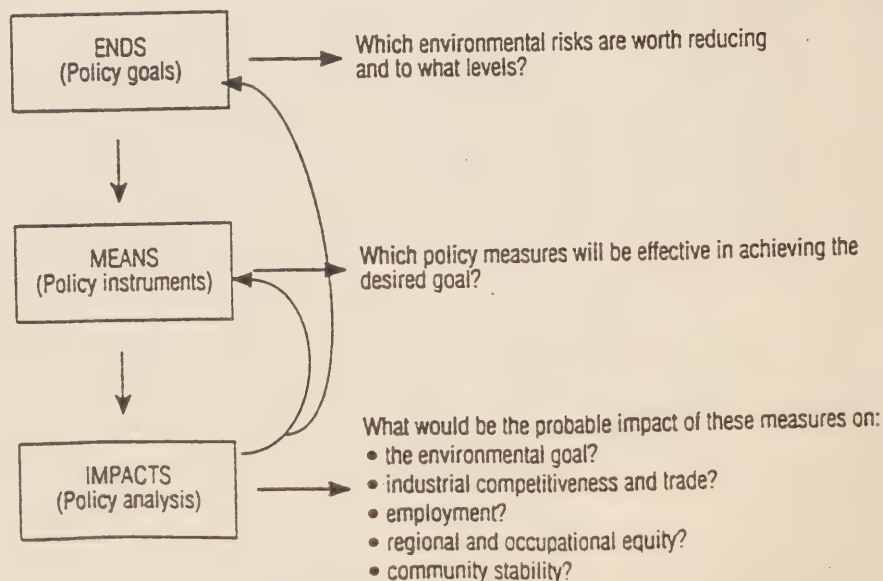
Exhibit 4 illustrates three main phases of policy formation: ends, means and impacts. Consideration of Exhibit 4 reveals four points of significance.

First, it is important to distinguish ends from means. The ends of chief importance are reduced environmental risks to human health, critical life-support and ecological systems, and productive resources. Yet many programs for sustainability and environmental protection appear to focus upon establishment of means apart from ends.

For example, energy efficiency and conservation are frequently addressed as targets for action. As long as electricity supply in modern economies requires current methods of production (fossil fuel, hydro, nuclear), energy production and use will carry negative environmental side-impacts. Energy efficiency and conservation will therefore indeed contribute to environmental protection. But what if,

Exhibit 4.

The Major Phases of Policy Formation



Source: The Conference Board of Canada.

A mix of instruments may best preserve the flexibility of decision makers.

within the next decade, a breakthrough in photovoltaic (or some other) technology makes vast quantities of energy available at commercially attractive costs? A technology such as photovoltaics would appear to have few environmentally damaging impacts.

Why would a focus upon conservation of energy derived from photovoltaics then contribute to sustainable development? To promote economic efficiency? As long as markets are relatively undistorted, economic efficiency in energy production and use will be secured by movements in relative prices. Energy conservation, then, would appear to be a means of reducing risks to health, ecosystems and resources, not an end in itself.

Second, there exist a variety of policy measures for the reduction of most environmental risks. Exhibit 5 illustrates the spectrum of means, ranging from measures that allow producers and consumers the least flexibility in their choice of actions to those allowing the most. At one end of the spectrum are traditional command-and-control regulations, which allow the

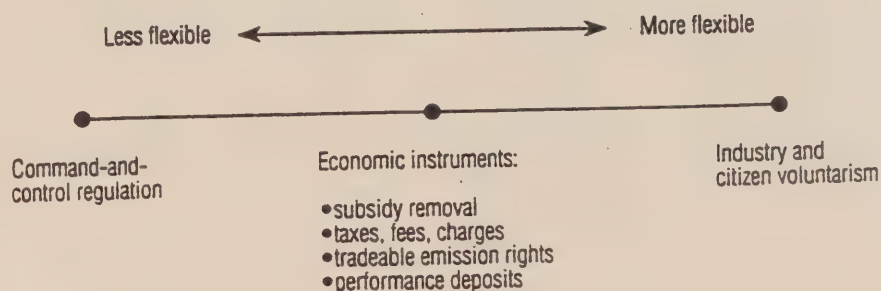
least flexibility.¹⁰ At the other end are voluntary actions taken by businesses, by industries in programs of self-regulation and by citizens (for example, buying "green" products or cycling to work). In the middle of the spectrum are economic instruments, such as the removal of subsidies or the imposition of taxes and charges on environmentally damaging actions. The choice of effective instrument will vary with the nature of the environmental risk to be reduced and the context of the decision; a mix of instruments may best preserve the flexibility of decision makers.

Third, attempts to estimate the impact of alternative measures, prior to implementation, will contribute to more acceptable political choices. In the industrialized nations, increased consideration is being given to the "greening" of fiscal policies, that is, taxing "bads" (pollution, congestion, resource depletion), not "goods" (capital, labour, investment). While this approach is attractive at first glance, it nevertheless begs some questions. What, precisely, are the

In the industrialized nations, increased consideration is being given to the "greening" of fiscal policies.

Exhibit 5:

The Spectrum of Policy Measures



Source: The Conference Board of Canada.

¹⁰ This does not imply, however, that regulations are always the least attractive measure; in some situations, regulations may be the most effective and efficient measures.

bad that is to be reduced? Is resource depletion, for example, always bad? The implementation of a green tax may achieve the desired reduction in environmental risk (and promote more efficient resource use), but what are the accompanying unintended side-effects? What will be the effect of the measure on the international competitiveness of domestic export-oriented industries if the jurisdiction acts unilaterally? on employment and stability of communities, especially resource-dependent communities? Which regions and occupational groups will bear the brunt of the measures, and which will receive the benefits?

For example, in 1990 the federal government announced its intention to stabilize Canada's emissions of greenhouse gases (apart from those controlled by the 1987 Montreal protocol) at 1990 levels by the year 2000. This goal was reaffirmed at the United Nations Conference on Environment and Development (UNCED) in 1992, and the current government has reiterated its commitment to the target, with a yet more stringent target under consideration. These targets were set with little public consultation and debate on the alternative measures available for achieving the goal or on the impacts of those measures. Only within the last two years have studies become widely available to the interested public. It does not appear that policy analysts, let alone Canadian business persons and citizens, had plausible estimates in 1990 of the means and impacts of pursuing the stabilization target.

It may be argued that data and analytical methods are not sufficiently developed to enable such estimates to be made with any certainty. However, many (if not most) decisions of any consequence in business and government are made under conditions of uncertainty and imperfect information. Economists, management scientists

and decision analysts have developed techniques for structuring decisions under such conditions. Appropriate use of these methods can generate understanding and insight leading to improved decisions, since the use of these methods makes explicit the underlying assumptions and uncertainties of the decision makers. Furthermore, the use of decision analysis yields a side-benefit: the value of having more information can be quantitatively estimated. This calculation can then be used to guide research priorities: will the value of the output from a specific research program, if successful, justify the cost of the research? Such estimates are especially important in exploring environment-economy linkages, since gaps in knowledge remain large in many areas; again, priorities must be set.

Fourth—and of prime importance—goals and measures may have to be modified in light of estimated impacts. If the estimated impacts of a specific measure are deemed to be unacceptable, then other measures must be considered. If the impacts of all feasible measures are unacceptable in their consequences, then the goal itself may have to be modified before political commitments are confirmed.

Synthesis

Exhibit 6 (pages 16 and 17) illustrates one option for sequencing the three priority tasks and their sub-tasks.

It is important to note that reforming public policies for sustainability will be most effectively undertaken if task 2, the assessment of economic policies for environmental side-effects, is integrated with priority tasks 1 and 3. Removal of an environmentally damaging subsidy, for example, may both increase economic efficiency and reduce environmental damage. But other impacts must also be considered. Regional, industrial and employment impacts could be severe

If the estimated impacts of a specific measure are deemed to be unacceptable, then other measures must be considered.

► *If the federal government and the major provinces each undertook these three priority tasks to reform public policies, a major benefit could be more fruitful harmonization of federal-provincial policies.*

unless such subsidy removal is phased in over time. Transition policies may be required for certain regions and occupational groups. Furthermore, removal of any particular subsidy or imposition of any environmental tax or charge is simply a means to a further end. The ends must first be prioritized, as described in priority task 1.

If the federal government and the major provinces each undertook these three priority tasks to reform public policies, a major benefit could be more fruitful harmonization of federal-provincial policies. Completion of these tasks would provide each jurisdiction with a clear view of its major environmental risks, some understanding of necessary reforms to departmental policies, and estimates of the costs and impacts of implementing measures of reform. Again, the explicitness provided by structured processes could promote joint action where such action appears to be politically and economically feasible. Furthermore, undertaking the three priority tasks would provide Canada with a more sharply focused view of the nation's interests in international negotiations to promote sustainable development.

In reality, it may be countered, policy formation is better described by a "spaghetti nest" than by a tidy flowchart. There are many points of entry; lines cross and back-track, while some have no discernible destiny; decisions are not taken at fixed points, but emerge gradually.

There is much truth in this contention. But every jurisdiction has an incentive to move in the direction of the flowchart, for

efficient and skilful public policy has never been more important. The resource constraints on Canadian governments, industries and taxpayers require a more coherent process for environmental decision making.

Conclusion

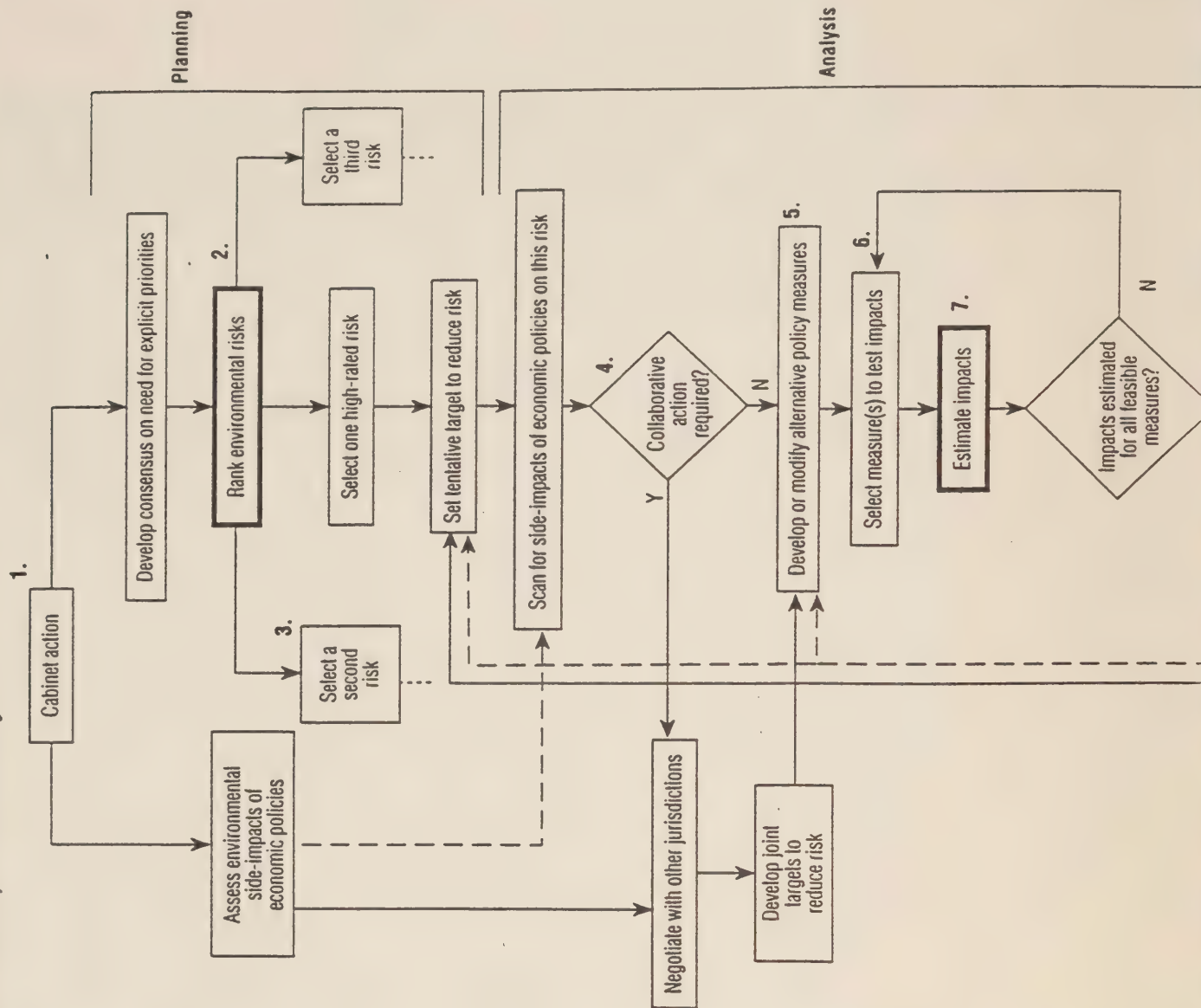
This report has proposed that progress towards sustainability—environmentally sustainable economic and social development—will require structured processes, incorporating scientific and economic analysis, for clarifying political choice. Exhibit 6 outlines one plausible process for the next decade. While the tasks in this process appear to be necessary, they are far from sufficient over the longer term. The following work has been developing for a number of years and might usefully continue for many more:

- improving natural resource accounting/sustainability indicators
- refining valuation methods for environmental costs and benefits
- developing measures of ecosystem resilience/integrity
- applying multi-criteria and decision analysis methods
- confirming principles and mechanisms for international action
- generating social consensus on desirable and attainable futures

Progress in each of these areas will enrich and refine the reformation of public policies for sustainability. Much can be learned in these areas—and in implementing the three priority tasks—from successes and failures in other regions of the world.

One Potential Process to Reform Public Policies for Sustainability

1. A decision is required from the highest level of policy formation (federal or provincial cabinet) to initiate the parallel processes of
 - a) defining and prioritizing environmental risks; and
 - b) assessing the environmental side-impacts of economic policies (developing an Economic Policy Impact Matrix).
2. Processes now exist to rank environmental risks according to the severity and extent of probable damage to human health, ecosystems, and productive resources. The precision of ranking that is justifiable will depend upon the available data and the uncertainties.
3. Once risks have been prioritized, further work on several can proceed in parallel.
4. Environmental risks that are interregional in cause or impact will require negotiation among jurisdictions; policy measures implemented by only one jurisdiction may be either ineffective, inequitable, or both.
5. Cost-effective reduction of certain environmental risks may depend more upon reform of existing policies than introduction of new measures.
6. Some risks may require the use of more than one policy measure.
7. The precision warranted in estimating impacts will depend upon the quality of data and models, availability of analytical methods and resources, and the uncertainties present. The "fallacy of misplaced concreteness" results from presenting a high degree of precision that is not warranted. Estimates need to be tested for their sensitivity to changes in key assumptions.

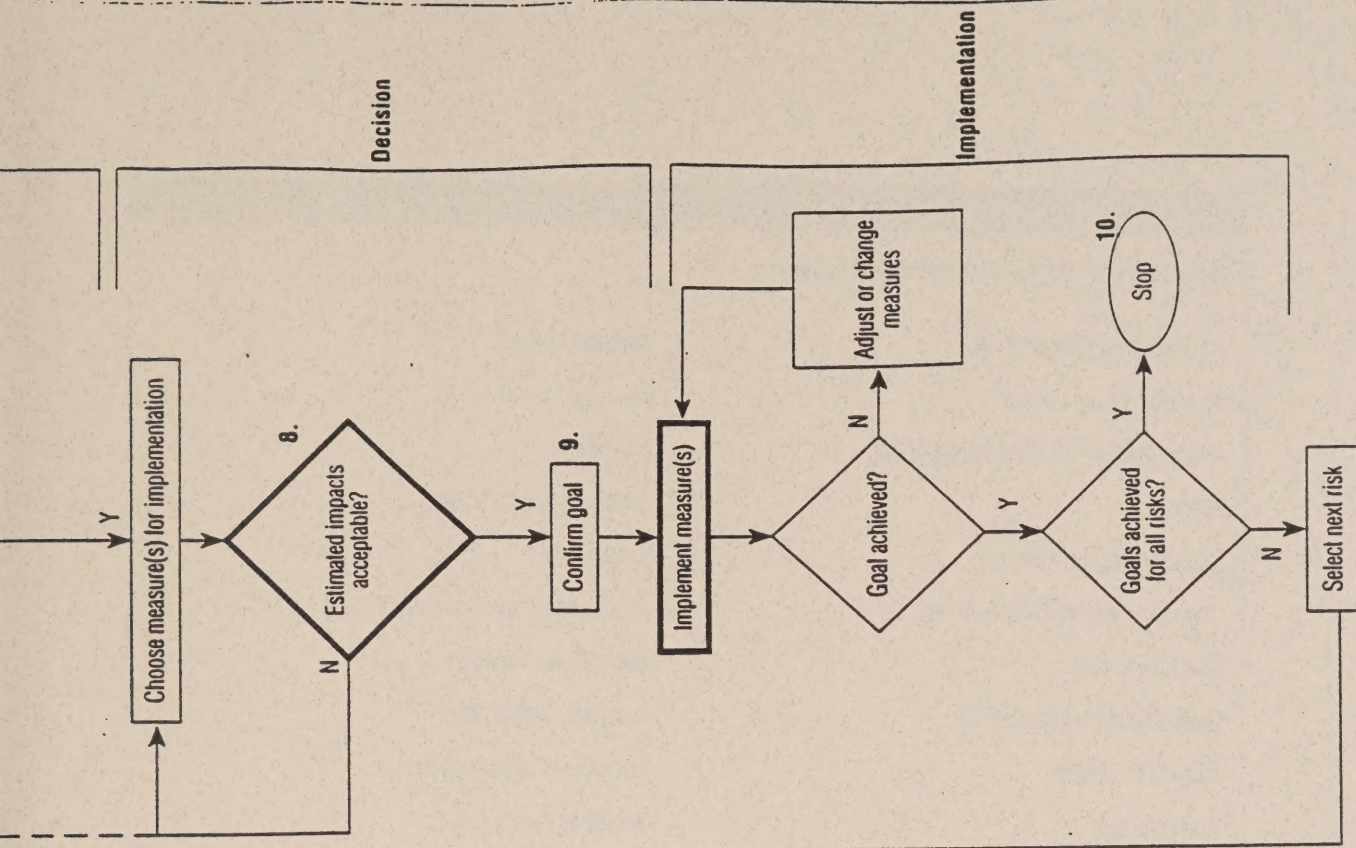


8. An important question is: "For whom are these estimated impacts acceptable?"

9. A goal (as understood in this report) is a measurable, time-bound target for the reduction of a specific environmental risk.

10. In reality, the process will not "stop" but will continually incorporate the results of new studies, shifts in values, and improved analytical techniques.

Thicker-lined tasks are likely to be resource-intensive and/or difficult to perform. Each of the 4 phases has at least one thick-lined task.



Business and Environment Research Program

Advisory Board—Corporate Members

Alberta Energy Company Ltd.

Alcan Aluminium Limited

Amoco Canada Petroleum Company Ltd.

Avenor Inc.

Canadian National Railways

Canadian Occidental Petroleum Ltd.

Dow Chemical Inc.

General Motors of Canada Ltd.

HBT AGRA Limited

Hydro-Québec

Imperial Oil Limited

Manalta Coal Ltd.

McCarthy Tetrault

Noranda Inc.

Novacor Chemicals Ltd.

Ontario Hydro

PanCanadian Petroleum Limited

Shell Canada Limited

Syncrude Canada Ltd.

TransAlta Utilities Corporation

Westcoast Energy Inc.

